United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

Vol. 144 WASHINGTON, WEDNESDAY, MAY 6, 1998 No. 55

House of Representatives

The House met at 10 a.m.

The Reverend Dr. George Docherty, Pastor, Retired, Alexandria, Pennsylvania, offered the following prayer:

Let us pray. God of the ages, before even the mighty nations of the world have had their hour and now are part of history, we begin this new day invoking Thy blessings upon all our deliberations. Help us to see beyond the thrust and cut of debate and the issues that divide us, to behold again the all embracing unity of our people. Help us to regard the sacred phrase ''one Nation, under God, with liberty and justice for all,'' to regard this sacred phrase as more than a noble sentiment from a historic declaration.

Grant to these men and women gathered here today strength in their demanding duties, clarity of purpose. Help them to see the ultimate vision of justice and that love that transcends all differences. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. PALLONE) come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1385. An act to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1385) ''An Act to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, and Mr. REED, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 one-minute speeches on each side.

APPRECIATION FOR DR. GEORGE DOCHERTY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I simply want to share with my colleagues what a wonderful thing it is today to have Dr. George Docherty back sharing with us and leading us in prayer. He grew up and attended public school in Scotland; in Glasgow, to be exact. At the age of 20, he heard his calling to become a minister.

In 1949, the Washington religious community was shocked by the death of Dr. Peter Marshall, the Scottish preacher, who was both Chaplain of the U.S. Senate and Pastor of the New York Avenue Presbyterian Church.

Dr. Marshall had identified a minister to preach in his church in his absence: George Docherty. In 1950, the congregation chose as its new pastor George Docherty. He held the congregation together and led the church into an active ministry for the underprivileged which continues to this day. He worked with Reverend Billy Graham on the Washington crusades and arranged for Reverend Graham's first crusade to Scotland.

For all of us this week, we should think about the notion, as we contemplate prayer and a National Day of Prayer, that Dr. Docherty convinced President Eisenhower and the Congress to add the words ''under God'' to the Pledge of Allegiance. He is an example of why this is a great country, filled with good people who do amazing things.

The fact is that we all owe Dr. George Docherty a thanks for reminding us that the only true America is an America which recognizes that its blessings come from the Creator who endows it with its unique rights.

APPEAL MEANS STONEWALL

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, yesterday, Judge Norma Holloway Johnson threw out President Clinton's claim of executive privilege regarding the latest crime or scandals in the White House.

No wonder. The President has been taking indecent liberties with the concept of executive privilege. He has hidden behind executive privilege in order to keep the American people from knowing the truth.

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According to press accounts, the White House may even appeal this decision. There is only one reason to appeal this decision, and that is to keep the American people from learning the truth.

Mr. Speaker, no man is above the law. Judge Johnson's decision affirms that basic American principle. No matter what strategy the White House decides to employ, the American people have the right to know the truth. An appeal by the President on this case would amount to one more effort to stonewall the Starr investigation and keep the truth away from the American people.

CAMPAIGN FINANCE INVESTIGATION

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Mr. Speaker, I am shocked by the new discoveries that have been made by the editors of the gentleman from Indiana (Mr. BURTON) in his so-called investigation. Just listen to this: It turns out that when Franklin Delano Roosevelt rallied our country during the Depression, what he really said was, ''The only thing we have is fear itself.'' At John F. Kennedy's stirring inaugural, what he actually said was, ''Ask not what you can do for your country.''

Most shocking of all, the gentleman from Indiana (Mr. BURTON) has discovered that Republicans as well as Democrats have been misquoted through the years. Even George Bush, if the skillful editors of the gentleman from Indiana (Mr. BURTON) were around in 1988, they may have changed history. In Burtonland, George Bush actually said, ''Read my lips: New taxes.''

Hard to believe? No harder to believe than the distorted, dishonest, and discredited tapes Mr. BURTON tried to fool the American people with. This deceit is shameful.

I guess the only thing the gentleman's committee's multimillion-dollar spending spree cannot buy is fairness and honesty. Do all Americans a favor and stop this charade.

MISSILE TECHNOLOGY TRANSFER TO CHINA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, a news account last week detailed a Clinton administration proposal to begin space cooperation with China. Shockingly, the administration's proposal would permit the transfer of missile technology with the potential of enhancing Chinese nuclear weapon strategy, weapons of mass destruction.

Mr. Speaker, according to experts, China has already supplied missile test equipment to Iran and other nations that have a clear vendetta against the United States. Why is the Clinton administration allowing transfer of weapons technology to China? Are they naively believing this information is secure? Who are they kidding?

Constructive engagement with China is one thing, but providing technology for computer guidance systems, for ICBMs is not only outrageous, it is a direct threat to our national security.

This should be investigated. Although we should constructively engage China, our first and foremost concern should be protecting America's interest and prohibiting transfer of weapons technology which could threaten the Nation's security.

CAMPAIGN FINANCE INVESTIGATION

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, when someone takes on the job to be chairman of the House Committee on Government Reform and Oversight, in this case, the gentleman from Indiana (Mr. BURTON), they have an obligation to be impartial in conducting the investigation.

The gentleman from Indiana (Mr. BURTON) has totally abrogated that responsibility, in particular this last week, in the way that he released the Hubbell tapes. The gentleman from Indiana carefully edited and rearranged the tapes, releasing them with errors and omissions so as to be damaging to the President.

I ask, how can the gentleman's committee's investigation possibly be fair when the chairman acts in this fashion? The public is tired of this investigation. It is expensive. It has cost over $6 million so far. It takes away from the real issues that the House of Representatives should be addressing. But at least if the gentleman from Indiana is going to do the investigation, he should do it fairly. Since he cannot, he should be removed as the chairman in charge of the investigation.

IRS GETS A RAISE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, tucked away deep inside the $128 billion in new Federal taxes in President Clinton's new budget proposal is a $529 million increase in the salaries for the Internal Revenue Service. That is right, Mr. Speaker. The IRS, the same out-of-control rogue Federal agency that has trampled the constitutional rights of millions of American citizens, is getting a pay raise.

We are all familiar with the saying, ''if it is not broke, do not fix.'' However, someone needs to introduce this administration and my liberal colleagues to the concept that if it is broke, do not reward them with a half a billion dollar pay raise out of the pockets of the American taxpayers.

In light of recent reports of taxpayer abuse by IRS agents, the President promised swift action. If a half a billion dollar pay raise is swift action, I would hate to see just what his long-range corrective action would entail.

Thomas Sowell, a noted economist, once said, ''It is easy to be wrong, and to persist in being wrong, when the costs of being wrong are paid for by others.''

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER. The Chair announces as additional conferees from the Committee on Ways and Means to the conference on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes:

Mr. NUSSLE and

Mr. HULSHOF.

Further conferees will be announced later.

The Clerk will notify the Senate of the change in conferees.

CAMPAIGN FINANCE INVESTIGATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the gentleman from Indiana (Mr. BURTON), chairman, has seriously threatened the integrity of the House and its ability to conduct a fair investigation. First, the gentleman released tapes which, as the Washington Post states today, mainly deal with ''highly personal matters of no conceivable relevance to any public inquiry.''

We discover that the gentleman from Indiana (Mr. BURTON), chairman, is so determined to smear the President that he doctored those tapes and he altered the content to suit his own purposes.

We have a responsibility to investigate any wrongdoing, but the gentleman from Indiana (Mr. BURTON) and Speaker GINGRICH have a responsibility to conduct that investigation fairly and impartially.

The gentleman from Indiana (Mr. BURTON) and Speaker GINGRICH have proven themselves incapable of being either fair or impartial. I call on them to remove themselves immediately from this investigation. Stop diverting attention away from the real issues, the issues that the American people want this House to consider: managed care reform, improving our public schools, and enacting real campaign reform. Let us put an end to this partisan investigation and let us get to work.

□ 1015

MANY UNANSWERED QUESTIONS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I am really disturbed by the allegations against our colleague that he altered tapes. The gentleman from Indiana has not altered any tapes.

But I guess what I am also very, very concerned about is why are the Democrats worried about why Web Hubbell was awarded $100,000 from the Indonesian Government after he left the White House? Was it hush money? Why did Revlon Corporation give him $63,000?

Why, on these unaltered tapes, did he say I have to roll over for the White House one more time? Why did his wife say here comes the White House squeeze again?

Why did 19 members of the Committee on Government Reform and Oversight, 19 Democrat members, refuse to give immunity to four witnesses that the Democrat Department of Justice has already given immunity to? Why are the Democrats not interested in getting to the truth?

Why did Monica Lewinsky visit the Oval Office 37 times? Quite a file clerk, huh, Mr. President?

Why are these things going on? Why does Ms. McDougal not speak, Mr. Speaker? Why are the Democrats not curious?

Mr. Speaker, I have these questions.

SUPPORT MAINTAINING CURRENT DOMESTIC SOURCING STANDARDS

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, as we envision the American soldier of the future, we imagine that soldier with state-of-the-art equipment, weapons, and training. Would it surprise us to see that soldier wearing a uniform made of Chinese fabric assembled in Taiwan? Would it trouble us to imagine him in the trenches wearing a helmet cast from German steel and eating rations imported from Sweden? Does it shock us to learn that the Department of Defense wants Congress to allow the purchasing of foreign materials and food for American soldiers?

With apologies to my fellow Ohioan, let me say, Mr. Speaker, we should all be beamed up on this one.

I plan to see that American soldiers are not clothed and fed by foreign companies and that the Department of Defense's Buy American laws are not circumvented with slick legislative language. I urge every Member of this body to join me and my colleague from New Jersey (Mr. LOBIONDO) in cosponsoring the Strickland-LoBiondo resolution to maintain current domestic sourcing standards.

APPOINTMENT OF ADDITIONAL CONFEREE ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore (Mr. SHIMKUS). Without objection, the Chair announces the Speaker's appointment of an additional conferee from the Committee on Ways and Means on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes:

Mr. RANGEL.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

KYOTO TREATY SHOULD BE DEALT WITH IN LIGHT OF DAY

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, the U.N. treaty on climate change that was negotiated in Kyoto, Japan last December is a bum deal for this country. If ratified, this overreaching agreement would result in fewer American jobs, higher prices, a lower standard of living, and it will not reduce emissions.

Fortunately, there is strong opposition to this treaty in Congress, and the Clinton administration does not have the votes to win ratification in the Senate. However, faced with this dilemma, it appears the President will attempt to implement his policy objectives through regulatory fiat, executive orders and stealth tactics; regulatory end runs.

Congress must not allow this to happen. We must fight to defend our economic interests and we must fight to protect the integrity of the legislative process. To do anything less would be a grave disservice to the American people.

In yesterday's Investor's Business Daily, there is an editorial which highlights the Clinton administration's attempt to circumvent the will of Congress. Mr. Speaker, I urge my colleagues to read it and join in the effort to ensure that the Kyoto treaty is dealt with in the appropriate manner: in the light of day.

MR. BURTON SHOULD STEP ASIDE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, these are not my words: ''If Republican leaders hope to preserve any shred of credibility in this House investigation, they must make it clear now that Mr. Burton must go. Must go now.'' The Albany Times Union, New York. Albany, New York, May 5, 1998.

The real question, Mr. Speaker, is would we want this to happen to us? Yes, the United States House of Representatives has the legal right to take the tapes that were taped of Mr. Hubbell in his conversations between his wife and attorney. The question is do they have the legal right to distort the truth before the American people? Do they have the right to selectively issue the transcripts? No, not distort the tapes, but selectively issue the transcripts.

Would we, as American citizens, want this to happen to us? Would we want our rights violated, our privacy destroyed and distorted? I believe not. And so the question becomes for this investigation to have any credibility, this person who leads out of this committee must step aside for us to be able to rise up and represent the American people.

THIS ADMINISTRATION NOT THE MOST ETHICAL

(Mr. PETERSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Pennsylvania. Mr. Speaker, for one minute let us say out loud what Republicans and Democrats on Capitol Hill are saying privately about what they are reluctant to say in public: The emperor has no clothes.

It is obvious that the people who came to Washington, promising the most ethical administration in history, is nothing of the sort. The nearly $3 million the Democratic National Committee returned after the 1996 election, because it came from foreign sources, was not raised by accident. White House assertions that they do not know how the White House ended up with 900 FBI files on Republicans are not true. And the assertion that no one knows who hired Craig Livingston is not only a lie, it is a laughable one. White House denials that the Lincoln bedroom was not sold or the White House coffees have nothing to do with fund-raising are lies.

Just more examples of an almost pathological inability to be honest with the American public. The latest scandals are simply more of the same, and they are popping up everywhere.

Mr. Speaker, why sugarcoat what everyone knows to be true. The emperor has no clothes.

CONGRESS IS SELLING ITS FISCAL SOUL

(Mr. MINGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINGE. Mr. Speaker, we have embarked on an era of political cronyism, plantation politics. This body recently passed a transportation bill that is $35 billion over budget. The bill did not pass on its merits but on the basis of 1,400 especially identified projects to garner the support of the Members of this body.

What does this mean? We are selling our fiscal soul; we are returning to the era of deficit spending. Or are we going to use the projected budget surplus for new programs as opposed to deficit reduction or for tax cuts as opposed to deficit reduction? Are we going to handicap our ability to address the problems of the Social Security System; or are we going to gut programs for veterans, agriculture, education, health care, seniors and our Nation's defense?

Mr. Speaker, we must not let the biggest pork barrel spending bill in the history of our Nation pass conference committee.

SUPPORT THE NATIONAL RIGHT TO WORK ACT

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I rise today to speak for 80 percent of Americans who support the National Right to Work Act, H.R. 59.

The National Right to Work Act repeals those sections of Federal law that give union officials the power to force workers to pay union dues as a condition of employment.

Compulsory unionism violates employers' and employees' constitutional rights of freedom of contract and association. Congress has no constitutional authority to force employees to pay union dues to a labor union as a condition of getting or keeping a job.

Passage of the National Right to Work Act would be a major step forward in ending Congress' illegitimate interference in the labor markets and liberating America's economy from heavy-handed government intervention. Since Congress created this injustice, we have the moral responsibility to work to end it, Mr. Speaker.

The 80 percent of Americans who support right-to-work deserve to know which Members of Congress support worker freedom. I, therefore, urge the congressional leadership, the majority of which have promised to place a National Right to Work Act on the floor, to fulfill their promise to the American people and schedule a time certain for a vote on H.R. 59.

RAISE LEGAL PURCHASE AGE FOR TOBACCO TO 21

(Ms. DEGETTE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DEGETTE. Mr. Speaker, if my colleagues pick up any copy of Rolling Stone or Sports Illustrated, they are certain to see tobacco advertisements dominating the pages. Why? Because these publications are aimed at college-aged kids, and tobacco companies know they must aggressively seduce this age group into smoking if they are to survive as an industry.

That is why R.J.R. has invested millions of dollars in its Camel Club Program in cities like Cleveland and in Denver, where college-aged kids hand out free cigarettes and R.J.R. paraphernalia to their peers.

Most minors under 21 who pick up smoking as a casual habit will become addicted to cigarettes for a lifetime. In fact, there is a less than 10 percent chance of becoming addicted to cigarettes if a smoker does not first light up before his or her first 21st birthday.

The only way to stop the tobacco industry from luring kids under 21 into using this deadly product is to make the sale of tobacco illegal to this age group. By raising the age to 21, we can stop this deadly practice.

REASONS FOR RELEASING THE HUBBELL TAPES

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I rise today on the occasion of being a member of the Committee on Government Reform and Oversight and the disagreements that have occurred between the minority and the majority.

I think it is vitally important to understand what some of the major issues are, and one of the issues being the tapes. I want all the American people to know that we believe that under the law, the committee is entitled to have the tapes. In fact, a subpoena was issued last July, and that subpoena was responded to by the Justice Department by providing our committee with all of the tapes of Mr. Hubbell's discussion with his family and friends while he was institutionalized in a Federal institution for conviction of a crime unrelated to Whitewater or anything that we are investigating.

The problem was should these tapes be released to the public and whether or not it in any way impeded what the committee was doing. The fact is we had the tapes for more than 6 months.

STOP KEYCHAIN GUN FROM BEING IMPORTED OR MANUFACTURED IN UNITED STATES

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the front page today of the New York Times documents a new horrible device that has just been found. It is a gun that looks like a keychain, and its only purpose is to be smuggled through metal detectors at our airports. This is a dangerous device that could allow terrorists, criminals, drug dealers, and others to get guns through airports and into airplanes and in our country.

I am writing the President and asking that he administratively block the importation of this device. If that is not possible, then we should introduce and quickly pass legislation that would stop this so-called keychain gun from being imported or manufactured in the United States.

Mr. Speaker, abolishing this awful device with the only purpose of helping terrorists is something that even Charlton Heston could agree on.

□ 1030

SOCIAL SECURITY TRUST FUND

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Michigan. Mr. Speaker, I would like to call to the attention of my colleagues a bipartisan bill that we will be introducing. It deals with Social Security, the money that we are borrowing from the Social Security Trust Fund.

It does two things. It says, in the future when we borrow money from the Social Security Trust Fund, they will not be blank IOUs, as they are today, but they will be marketable Treasury notes that the trustees of the Social Security Administration can walk around the corridor and cash in when they need them.

The second thing this bill does is that it says, in the future, when CBO and OMB, the Congressional Budget Office and the Office of Management and Budget, issue projections of deficits or balanced budgets, they will not include the money that is borrowed from the Social Security Trust Fund. I invite my colleagues to cosponsor that bill with us.

It seems very important that we move ahead honestly and that we achieve a real, honest budget. Even though we have made great progress over the last several years, cutting down the deficit by $300 billion, let us move ahead.

MARRIAGE PENALTY TAX

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, as Mother's Day approaches, we should all remember that when a couple stands at the altar and says, ''I do,'' they are not agreeing to higher taxes. Yet, under our current Tax Code, that is precisely what is happening to millions of married couples each and every year.

According to a recent report by the Congressional Budget Office, an estimated 42 percent of all married couples, some 21 million couples nationwide, incurred a Federal marriage penalty tax in 1996. The average marriage penalty that year approached an astounding $1,400.

Addressing this inequity in our tax law must be one of the top priorities of this Congress as we work to provide the American people further tax relief in 1998. This Mother's Day, I would urge all of my colleagues on both sides

of the aisle to give the gift of tax fairness by supporting our efforts to eliminate the marriage penalty tax.

SCHOOL CHOICE

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, we have been having a debate here on the floor of the Congress about school choice and particularly here in the Washington district.

Jonathan Rauch writes on this issue in the last November 10 edition of the New Republic. He says he has always found it odd that the liberals have handed the issue to the Republicans rather than grabbing it for themselves. He writes, ''It's hard to get excited about improving rich suburban schools. However, for poor children, trapped, the case is moral rather than merely educational. These kids attend schools which cannot protect them, much less teach them. To require poor people to go to dangerous, dysfunctional schools that better-off people fled and would never tolerate for their own children, all the while intoning pieties about 'saving' public education, is worse than unsound public policy. It is repugnant public policy.''

Mr. Speaker, we agree.

RECOGNIZING PUBLIC SERVICE BY WASHINGTON STATE BROADCASTERS

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, I rise today to call attention to the outstanding public service work being done by broadcasters across America and especially in my district in eastern Washington.

The Washington State Association of Broadcasters recently completed a survey of its membership and the results were extremely encouraging about the level and types of public service rendered on a daily basis by radio and TV stations in my State.

I want to particularly praise the fine work done by stations in my district, the fifth of Washington. KXLY-TV created a school attendance award that helped decrease truancy in Spokane middle schools. KHQ-TV spent hundreds of thousands of dollars for the ''Success by Six'' program that is helping children throughout Spokane middle schools learn to read by the time they are 6 years old. KREM-TV recently raised more than $166,000 for programs benefiting women and children, such as the YWCA Transitional School for Homeless Children. And KAYU-TV is teaching kids lessons about fire safety with PSAs throughout their children's programming.

There are many more examples of this kind of public service provided on a daily basis by local broadcasters in Washington State and across the Nation. We should thank these outstanding broadcasters who truly share the spirit of outstanding public service.

REFUSAL TO GRANT IMMUNITY TO FOUR KEY WITNESSES

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, what can Congress do to break a stone wall? Many of the key witnesses in congressional investigations have either fled the country or taken the fifth amendment. Others have hidden behind phony claims of executive privilege.

And if that is not enough, now we have Democrats on the House Government Reform and Oversight Committee who refuse to grant immunity to four key witnesses; even their own Justice Department consents to the granting of immunity to those four key witnesses.

What is Congress to do? Well, Congress can go to the courts and, thus, delay investigations for many more months, while listening to the White House and other defenders of this sleaze and obstruction to cry with indignation that the investigation is taking too long.

Mr. Speaker, why is this story not being told? Why cannot everyone, Democrats and Republicans alike, agree that no one is above the law and that the American people have a right to truthful answers?

Mr. Speaker, no amount of stonewalling should stand between the truth and the American people any longer.

CLARIFICATION TO APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore (Mr. SHIMKUS). Without objection, the Chair announces that the Speaker's appointment of additional conferees today from the Committee on Ways and Means were solely for consideration of title XI of the House bill and title VI of the Senate amendments and modifications committed to conference on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 419, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 419

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Printed amendments shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

(Mr. DREIER asked for and was given permission to revise and extend his remarks and to include extraneous material).

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from South Boston, MA (Mr. MOAKLEY), pending which, I yield myself such time as I may consume.

Mr. Speaker, this modified open rule provides for consideration of H.R. 1817, the Communications Satellite Competition and Privatization Act of 1998. The rule provides for 1 hour of general debate equally divided between and controlled by the chairman and ranking minority member of the Committee on Commerce.

The rule makes in order as an original bill for the purpose of amendment

the amendment in the nature of a substitute recommended by the Committee on Commerce now printed in the bill, which shall be considered as read.

The rule further provides for consideration of only those amendments that have been preprinted in the CONGRESSIONAL RECORD. The rule also allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and reduce voting time to 5 minutes on a postponed question if the vote follows a 15-minute vote. And finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, the United States is the leader of the international information-based economy. My home State of California is home to many industries that create and exploit the core technologies of the information economy, including telecommunications and satellite producers.

The goal of this legislation is to bring satellite communications into a new era of competition. We get there by encouraging an international cartel of largely government-run national telecommunications monopolies to undergo a process of competitive privatization. The winners will be the consumers of international telecommunications services, who will enjoy lower prices, better services, and technological innovation.

Without question, there are very legitimate areas of debate regarding the best means of moving to a private, free market in international satellite communications. Because of the complex nature of the international satellite cartel, this is a modified open rule that does not block any germane amendment from being considered by the full House as long as the amendment has been preprinted in the RECORD.

Mr. Speaker, this rule is deserving of bipartisan support, as is the bill. I look forward to the House working its will on the amendments submitted that have been printed in the RECORD, with the hope that the final product is something that can be signed into law so that we more fully enjoy the fruits of our information-based economy.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I thank my colleague, my dear friend the gentleman from California (Mr. DREIER), my chairman in waiting, for yielding me the customary half-hour. It might be a longer wait than he anticipates.

Mr. Speaker, I rise in support of this open rule, although I do not understand the need for the preprinting requirement. There were only two recorded votes in committee. There is nothing in the bill that could not be handled in a totally open rule.

Today's rule will make in order the Communications Satellite Competition and Privatization Act, which will end the COMSAT monopoly.

In 1962, Mr. Speaker, President Kennedy established an international satellite system which gave rise to two huge satellite cooperatives, INTELSAT and Inmarsat.

Since these cooperatives are so big and so powerful, they completely had the entire market on satellite programs. Right now, any communications committee that wants to use the INTELSAT or the Inmarsat to transit into or out of the United States has to buy access through the COMSAT Corporation.

This bill will open competition in the international communications satellite system by encouraging INTELSAT and Inmarsat to privatize. It would help level the playing field and allow competing satellite companies to get into the business. Since the United States is such a leader in satellite technology, this privatization should be very good news for us.

COMSAT can continue to provide any service it wishes. It will just have to be subject to competition from other private-sector companies. So people who depend upon international communications, especially for international calls, the Internet, cellular phones, and video, can expect to see lower prices and much more choice in services.

So I urge my colleagues to support this rule.

□ 1045

Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY), the ranking minority member on the Subcommittee on Telecommunications, Trade, and Consumer Protection, the person who has all the questions and all the answers.

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY) for yielding me this time, and I thank everyone who has participated in this enormously important debate.

As has been pointed out by the gentleman from Massachusetts, back in 1962, largely in response to the challenge from the Soviet Union with the launch of Sputnik and the paranoia which overtook the West, the United States not only began a process of putting a man on the Moon and developing intercontinental ballistic missiles at a pace that had not yet been matched in our country, but it also helped to organize something which would create an international satellite consortium using government-based entities to launch these satellites, because there was no private sector capacity within the West in order to accomplish these goals.

This consortium, INTELSAT, later matched by another group called Inmarsat for satellite-based maritime communications, became the basis for, the foundation for, international satellite competition. It served us very well, as did most monopolies, in electricity, in local telephone, in long distance telephone, in cable in the initial stages of these industries. But over time it became clear that private sector competition in each one of these industries was possible. In each case, of course, the incumbent monopolist argued that it would be a takings, it would be illegal to take away this monopoly which had been granted by the government. But the reality was that the government had made a decision initially in order to grant to one entity the ability to be the first into the field, in order to establish it, but always retain the right to be able to break up the monopoly when private sector competition arrived.

Today we are going to debate the last frontier of monopolies, this one in outer space, this one where INTELSAT and Inmarsat, with its American signatory, COMSAT, seeks to retain its monopoly access to this satellite communication internationally. What our legislation does is break it up. It says to COMSAT, it says to INTELSAT, it says to Inmarsat, ''You must privatize. You must move to the private sector. You must give access to every other private sector company to that which you have.'' That is the objective of this legislation.

The gentleman from Virginia (Mr. BLILEY), the chairman of the full committee, has been the leader on this issue, driving it as an important final stage of our efforts to have privatized this international telecommunications industry.

Now, these two entities, INTELSAT and Inmarsat, two international orbiting cartels, are not going to simply wake up one day and say, ''Fine, take back our monopoly,'' because we have been waiting for the last 20 years for them to do that. It is not going to happen. They are not going to shed themselves of their privileged access to international frequency spectrum. They are not going to voluntarily give up their immunity from antitrust law. They are not going to compete against American-based satellite companies on an even ground, simply because we ask them to do so politely.

This legislation and the rule which accompanies it is a fair set of recommendations for the debate, and then for the substantive decision-making here on the floor. I hope that the Members today understand how historic this debate is. It really will help to revolutionize the way we communicate on this planet.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I rise in strong support of this very fair and balanced modified open rule and urge my colleagues to join in supporting it and to support the legislation that will follow.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to House Resolution 419 and rule XXIII, the Chair declares the House in the Committee of

the Whole House on the State of the Union for the consideration of the bill, H.R. 1872.

The Chair designates the gentleman from Kansas (Mr. SNOWBARGER) as Chairman of the Committee of the Whole, and requests the gentleman from Illinois (Mr. LAHOOD) to assume the chair temporarily.

□ 1050

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization of satellite communications, and for other purposes, with Mr. LAHOOD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998. Today I ask that all Members support this bill and oppose all amendments.

Let us ask a question, if we had it all to do over again, would we want to use the model of the United Nations for supplying international communications? Would we trust an important part of the information age to intergovernmental organizations? Or instead would we rely on the free market? If the last three decades have taught us anything, Mr. Chairman, it is the failure of central planning and the inefficiency of government-run industry. If we have learned anything, it is that we should trust the marketplace.

The international satellite communications market is dominated by INTELSAT for fixed services like voice and video, and Inmarsat for mobile services like maritime and aeronautical. These intergovernmental organizations want to use their market power to expand into advanced services that the private sector is chomping at the bit to provide, like Internet access, direct broadcast services and hand-held phones. These intergovernmental organizations, or IGOs, are run by a combination of the world's governments and owned by a consortium of national telecommunications monopolies. By government monopolies, for government monopolies, of government monopolies. Their supporters call them a cooperative. Where I come from, that is called a cartel. Either way, it is high time for them to be privatized.

On that there is little disagreement. But more than just privatized, they must be privatized in a pro-competitive manner, in a manner that fosters competition. A privatized monopoly is still a monopoly nonetheless, and in a manner that relies on the marketplace, not on governments. In the current structure, the owners of the IGOs are the foreign telecom monopolists that often control licensing decisions and almost always control market access. Thus they have the ability and the incentive to keep U.S. satellite competitors from coming into their countries and competing against INTELSAT and Inmarsat. If we remove these distorting incentives, our communications satellite and aerospace industries, the most competitive in the world, will have a fair shot at breaking into foreign markets. But if we are to bring technology of modern telecommunications to all parts of the globe, if we are to make international telecommunications truly affordable, then we have to muster the courage to privatize the cartels and force them to compete on a level playing field, putting our faith in the private sector and the free market.

The gentleman from Massachusetts (Mr. MARKEY) and I have introduced this legislation to do just that. It encourages privatization of the IGOs in a way that fosters competition rather than snuffing it out. It provides for privatization of INTELSAT by 2002 and Inmarsat by 2001, more than enough time for these organizations to privatize. More importantly, it requires privatization in a way that fosters competition. If they do not privatize in a pro-competitive manner, the bill limits these organizations' access to American markets for non-core services. Moreover, if they do not make progress towards privatization, they cannot provide under new contracts highly advanced services better left to the private sector.

The only effective way to get the IGOs to move is to use access to the U.S. market as leverage. The IGOs are immune and privileged treaty-based organizations. You cannot sue them, you cannot tax them nor can you regulate them. We have to use the only lever that we have, market access. The bill's mechanisms are akin to telling the Japanese that they cannot bring in all the cars they want unless they allow imports of American products. COMSAT, the U.S. signatory, and IGO reseller, is like the Isuzu dealer in Bethesda. The Isuzu dealer is a U.S. company but they are selling a foreign product. Here COMSAT is selling a foreign, intergovernmental product. By the way, our bill expressly permits COMSAT to sell any service it chooses if it does so over a system independent from the IGOs. Only where they choose to use the IGO facilities and if the IGOs do not progress toward a pro-competitive privatization would market access be threatened. The threatened restriction is on IGO services, so it could apply to any distributor of IGO services whether that is COMSAT or a new competitor after COMSAT's monopoly is eliminated.

Our legislation will eliminate COMSAT's monopoly by permitting competition for access to the IGOs. Such competition is called direct access. According to the FCC, COMSAT's average margin in reselling INTELSAT service is an amazing 68 percent. Not bad if you can get it, but very bad if you happen to be a consumer. Every cent of COMSAT's high prices comes from the pockets of American consumers. But COMSAT has used its position as the monopoly provider of IGO services to force users to sign long-term take-or-pay contracts so they will not be able to take advantage of the competition direct access will permit. Thus the bill provides what is called ''fresh look,'' which allows consumers to have a one-time chance to renegotiate monopoly take-or-pay contracts.

During the committee process, we defeated an amendment that would have eliminated using access to the U.S. market as a lever. We defeated an amendment to eliminate the potential restrictions on expansion if progress is not made toward privatization. We defeated an amendment to strike out fresh look. We accepted amendments which went a long way toward meeting concerns some Members and COMSAT had raised, and made other changes to accommodate their concerns. And the bill passed by voice vote.

The bill has been endorsed by every private satellite services company from GE to Motorola, TRW to Boeing, Teledesic to PanAmSat. It has also been endorsed by major users of the systems, AT&T, MCI and Sprint, maritime users and a variety of ethnic groups because of consumer cost savings that will come with the bill. Over 40 endorsements and counting. The U.S. signatory to the IGOs, COMSAT, of course, opposes it and they will oppose any effort at reform. It ends their monopoly and would force the IGOs to give up their special advantages when they privatize. A level playing field is not welcome when you have been the government-backed monopolist. They will use every tactic they can to trip up reform. We will have amendments that may sound reasonable, but in effect remove any incentives for the IGOs to privatize. I urge Members to ignore the rhetoric and oppose all amendments.

H.R. 1872 is, in the words of one industry coalition, a moderate and balanced approach. Consumers and taxpayers will benefit from the lower prices it will bring, and businesses and their employees will benefit from the new markets it will open.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield my time to the gentleman from Michigan (Mr. DINGELL), and I ask unanimous consent that he be permitted to control that time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield myself 6½ minutes.

□ 1100

Mr. Chairman, I want to express affection and respect for my good friend, the chairman of the committee, the gentleman from Virginia (Mr. BLILEY) and I also want to express the same good feelings towards my friend from Massachusetts (Mr. MARKEY). They are fine Members, and the fact we have a difference here does in no way diminish my respect or affection for either of these fine gentleman.

The simple fact of the matter, however, is this is a bad piece of legislation. It is unfair, it subjects the taxpayers of the United States to large liability under the Tucker Act, and I am talking about billions of dollars. This Congress has learned before that this is a risk, but it appears that we have to relearn the unfortunate lessons that we learned when we wrote the legislation on Conrail and when we did away with the unfortunate New York Central Railroad, and the bankruptcy and the reorganization by statute. We subjected the taxpayers to about $6½ billion in liabilities because we interfered with the contracts, we interfered with the business, and we interfered with the goodwill and the going value of the corporation, and it cost the taxpayers dearly. This is not a mistake which we should repeat today.

Mr. Chairman, H.R. 1872 has laudable goals. Unfortunately this legislation is going to fail. It is anticompetitive, it is anticonsumer and, worse, it is unconstitutional. The bill would impose draconian measures which would limit not only INTELSAT or Inmarsat, but it would also limit their U.S. customers. The bill unilaterally dictates complete privatization by legislative edict. If it were that simple, these treaty organizations could have long since been privatized.

I would point out these are treaty organizations. The United States cannot unilaterally impose its will on better than 141 sovereign nations who are party to these treaties. The bill disregards the cold hard fact that the United States has but one vote in the governance of INTELSAT and Inmarsat. Congress cannot change that unfortunate international reality.

It should be clear to anyone that this approach has no chance of success. If any foreign country wants to scuttle privatization efforts, this train will be immediately derailed and vital American interests will suffer.

The interesting thing is that foreign countries cannot only hurt Inmarsat and INTELSAT in this process, but, very frankly, they can hurt American corporations and American competitiveness and American business going well beyond these two entities.

I for one cannot support a bill that holds American interests hostage to the whims of 141 countries and that makes American carriers, innocent of wrongdoing, who have been held to be nondominant carriers just recently by the FCC, be at the mercy of foreign competitors.

When service restrictions contained in this bill kick in, hundreds of millions of dollars in American investments in satellite equipment will be made obsolete overnight.

If this were not bad enough, COMSAT, which is a private corporation publicly traded on the U.S. stock markets, will be ruined financially. Congress made a policy decision to fund these international satellite systems by putting private capital at risk instead of taxpayers' money, and when those private taxpayers' moneys and those stockholders' moneys are lost, the Federal Government will have a liability under the Tucker Act.

It should be noted that the United States Government encouraged and in many instances required COMSAT to invest in these systems in exchange for the responsibility and the opportunity to earn a reasonable return. That would be taken away from COMSAT.

And the practical result of this is again liability on the part of American taxpayers because of an unconstitutional action and an unconstitutional taking by this Congress of property belonging to private American citizens, which subjects this government immediately to redress under the Tucker Act.

For the government to breach this bargain, obliterating the value of this investment, then serious constitutional concerns are raised under the takings clause of the fifth amendment. The report can tell my colleagues until the committee is blue in the face that this is not going to be the fact, but be assured that it will be, and my colleagues are playing fast and loose with the taxpayers' money if they vote for this legislation. This provision alone will subject American taxpayers to claims for damages running to billions of dollars.

It should also be noted that this claim will fail. There is no reason to believe this, given the clear Supreme Court's precedents on these matters. And I would note that American users, as well as Inmarsat and INTELSAT, will suffer and will face the severe adverse impact that will flow from an unwise, unconstitutional, and unnecessary governmental action.

In any event, this Congress should not be willing to throw away billions of taxpayers' dollars on a litigation strategy that at best is no more than a crap shoot.

In sum, H.R. 1872 is a bad bill. It is in desperate need of radical surgery. It contains more constitutional law problems than a first year law school exam.

I urge my colleagues to join in defeating what is here, an ill-conceived budget-breaking bill that is going to waste taxpayers' moneys without any benefit to the taxpayers or to the country; and it will subject, I reiterate, our constituents to claims for billions of dollars in damages, with no hope or expectation of gain for the country, for competitiveness, or anything else.

Mr. Chairman, I urge the rejection of the bill, and I urge the adoption of the amendment which will shortly be offered by my good friend from Louisiana (Mr. TAUZIN).

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, let me first tell my colleagues that there is good news and bad news today. The good news is that this bill in this form will never see the light of day; it will not get through this Congress. It will not see the light of day in the Senate and should not in its current form. The bad news is the same; that this bill could fail, it could not become law because of its current form.

What I am rising today to ask this House to consider are amendments to this bill to put it in the shape so that it can become good law, the Senate and the other body can in fact take it up, and we might accomplish the goals of this legislation.

Let me first commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for the goals of this legislation. It is indeed on target. It is designed to privatize these treaty organizations and encourage that process as rapidly as possible.

Unfortunately, the bill is weighed down with several provisions which, as the gentleman from Michigan (Mr. DINGELL) pointed out, are clearly takings under the fifth amendment of the United States Constitution and which clearly will subject the Federal Government to the possibility of huge settlements and huge lawsuits against this government for taking private property without compensation.

Later on in this debate, the gentlewoman from Maryland (Mrs. MORELLA) and I will be offering amendments to deal with those sections of the bill. If those amendments are adopted, this bill will be put into shape, and then it should become law, and maybe it will have a chance on the other side. If those amendments fail, then I predict this bill will never see the light of day and will never become law in this Congress, and that is a shame. I should hope we have the good sense to pass those two amendments.

In the course of this debate, I will point out to my colleagues that in this bill is a provision that abrogates private contracts. In this bill Congress will be changing private contracts and allowing people to get out of contracts they signed. In the course of this debate, I will show my colleagues that one of the competitors to COMSAT took this issue to court and lost; lost in Federal district court and in their request to have these contracts abrogated. And now in this bill we are being asked as a Congress to change that

Federal court decision and to permit the abrogation of those long-term contracts.

Just on April 24, our FCC ruled that those COMSAT contracts were not monopolistic contracts, were entitled to the respect of law, and yet this bill will permit those contracts to be abrogated. By congressional action it will say that customers who signed the contract can get out of it when they want to, when the time comes in just a couple of years for them to do so.

In short, we will be presenting to our colleagues in this debate today several ways in which this bill can be improved so that it can go forward and hopefully become law. Without those changes, this bill will amount to congressional authorization of taking of private property from an American private corporation, will damage the facility of that corporation to provide service to American customers, and will in fact deny those American customers the right to use that American corporation in the facilitation of services for their customer base.

In short, this bill as it is currently written is going down, if not here, somewhere in this process.

Today we will have an opportunity to fix it in two very important aspects: to remove those private takings of private property without compensation, to protect the American taxpayer from these lawsuits and to protect the customers of a private American company from abrogation of their contract rights.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I am pleased to rise in support of H.R. 1872, legislation which will bring about the privatization of INTELSAT and Inmarsat.

When Neil Armstrong took the first steps on the surface of the Moon in 1969, the world was able to watch each step because of a successful Cold War collaboration known as INTELSAT. It was a network of three satellites at the time, just enough to provide global coverage of the Moon landing. It is now a network of 24 satellites offering voice, data, and video services around the world. Combined with Inmarsat's eight satellites, these ventures should be viewed as two of the most important successful international cooperation efforts ever undertaken.

The United States demonstrated great leadership when it helped create INTELSAT. I think we must demonstrate our leadership once again in making the changes necessary to fit our times by privatizing INTELSAT and Inmarsat. There is agreement on the goal of privatization, but how we get there is the key question. During subcommittee and full committee consideration of the bill, sponsors sought to address many of the concerns raised.

I commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) on their efforts to bring us closer to a consensus. I realize some still have reservations about the bill, but it is important to recognize that compromises and concessions have been made.

Concerns were raised about service restrictions on COMSAT. Those provisions were moderated. Concerns were raised about so-called fresh-look provisions. Those provisions were moderated. At some point, we need to ask whether those seeking further compromise are asking for changes to improve the bill or to kill it.

In closing, I want to bring to the attention of my colleagues my concerns with INTELSAT's current plan to spin off a private entity. Ever since the Subcommittee on Telecommunications, Trade, and Consumer Protection of the Committee on Commerce held a hearing on competition in the satellite industry over a year and a half ago, I have consistently raised concerns that any privatized spinoffs from INTELSAT or Inmarsat must be pro-competitive. The process of privatization we are supporting today is undermined if the privatized entity is created with unfair competitive advantages.

I look forward to moving this bill today, and I ask my colleagues to keep in mind whether those that are opposed are doing it to kill the bill or really to improve it.

With that, Mr. Chairman, I urge my colleagues to support H.R. 1872.

□ 1115

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. Mr. Chairman, I thank the Chairman for yielding, and I rise in support of H.R. 1872. This bipartisan bill, of which I am a cosponsor, is intended to bring competition to the intergovernmental satellite organizations, INTELSAT and Inmarsat. It will also remove COMSAT's monopoly over access to these organizations.

Fundamentally, this bill is a major policy decision that commercial satellite services should be provided by the private sector worldwide and not by the government. The government consortia may have been needed to run an international satellite system in the 1960s, but after almost 40 years, things change. We need to update our laws and our regulations to reflect the current marketplace.

In addition, increasing the competitive nature of the international satellite marketplace is very important to ensure that private American satellite companies can compete on a level playing field. And today, the playing field is tilted toward INTELSAT and Inmarsat. These organizations are owned by monopoly providers of telecommunications services worldwide. Working in cartel fashion, they have tried to keep competition from developing.

There are two other important provisions in this bill providing for ''direct access'' and ''fresh look,'' and I presume my time has expired.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time, and for his leadership on this issue.

Mr. Chairman, I rise today in strong opposition to H.R. 1872, and also in strong support of the Tauzin and the Morella amendments which are to come. This legislation, should it pass without these amendments, will set back 3 decades of American leadership in international satellite communications and reverse the trend toward increasing competition in the satellite industry.

The legislation before us today establishes unrealistic timetables and conditions for the privatization of INTELSAT and Inmarsat, prohibits any organization from being used to provide critical noncore satellite services to customers in the United States if the bill's rigid privatization deadlines are not met, and that is just not right.

Now, this legislation has laudable goals, and I appreciate its intent. Unfortunately, its approach is somewhat bludgeon-like, and the sponsors have taken a somewhat misguided and punitive approach, an approach that is so unfair that it has been denounced in publications as ideologically diverse as the Washington Times and the Boston Globe.

They would have us believe that COMSAT is a monopoly. They would have us believe that COMSAT is in fact the Microsoft of the satellite industry.

COMSAT is a United States company that is going to be punished by this bill. It is a publicly traded, U.S. company. It is not true that it is a monopoly. In fact, there are currently more than 20 competitors for COMSAT with more than $14 billion in investments and $40 billion in stock. If this is not competition, I do not know what is.

If we look a little further, in 1988 COMSAT controlled 70 percent of the market. That is not true today; they only control 21 percent. In fact, on April 28 of this year, the FCC declared that COMSAT is nondominant in most of its market. This effectively eliminates arguments that we will hear that we are trying to get rid of some terrible monopoly. The monopoly does not exist.

What we have is a United States company that is going to be severely punished as a result of this legislation.

COMSAT has represented the United States' interests in international satellite communications for 30 years. The company has played a leading role in moving toward privatization. The plans that are adopted currently by INTELSAT reflect the involvement of COMSAT.

Since its inception, COMSAT has never wavered from its mandate to provide satellite communications to some of the most remote parts of the world. It has done outstanding work. But now,

they are faced with an unprecedented legislative attack that will put this U.S. company out of business, this company that hires over 1,000 American citizens.

What does this bill do? It imposes some very un-American things on an American company. It imposes service restrictions on the new satellite communications service that COMSAT could offer to its customers. This would include high-speed data services, Internet access services, and land mobile communication; basically, taking the heart out of COMSAT's business. But even worse, it would abrogate contracts; that is, existing contracts could be set aside under the terms of this legislation to the detriment of COMSAT, all supposedly to promote privatization. In fact, this approach would undercut active efforts that are going on today to move toward privatization by imposing these unrealistic timetables.

Mr. Chairman, I think we do need to take a stand for privatization, but we need to be careful where we stand. We should not punish U.S. companies, we should not punish U.S. employees for actions by international organizations that they cannot control. We need to take a look at amendments that could help this bill, amendments we will hear about from the gentleman from Louisiana (Mr. TAUZIN) and from my colleague, the gentlewoman from Montgomery County, Maryland (Mrs. MORELLA). I think if we add these amendments, we can improve this bill. But as it stands, this bill is an unconstitutional taking from a U.S. company. It is punitive, it is unfair, and I hope this House will reject it.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS), a member of the committee.

Mr. STEARNS. Mr. Chairman, I rise in support of H.R. 1872.

I do not think there is anybody in this House that disagrees that we have to deregulate, and I am glad that the former speaker indicated he also agrees that we need to deregulate. So the goal of this legislation is to privatize INTELSAT and Inmarsat satellite systems, of which COMSAT is the U.S. representative; and even COMSAT itself agrees that we need to deregulate.

I am glad to point out that I have worked hard to ensure that the results will be INTELSAT and Inmarsat and their spin-offs will be healthy, private companies able to compete in the competitive satellite marketplace. Working with the chairman of the committee, the gentleman from Virginia (Mr. BLILEY), we were able to improve the bill in the committee process to make it more equitable and measure up to the approach of privatizing systems.

The original text of the bill inserted a retroactive date of May 12, 1997 in certain sections of the bill and, in effect, would have hurt COMSAT from making use of the significant investments in replacement satellites and in satellites for new orbital slots which they made since May 12, 1997. We were able to compromise and used the date of our Committee on Commerce markup of March 25, 1998 as the date of cutoff for replacement satellites in orbital slots. This change will allow COMSAT, as a U.S. representative to the INTELSAT and Inmarsat system, the use of hundreds of millions of dollars in investment. I bring that to the attention of my colleagues who are not in favor of this bill, because that amendment moved forward to give more equitableness to the COMSAT deregulation portion here.

Mr. Chairman, I am also sympathetic to the comments of the gentleman from Louisiana (Mr. TAUZIN), and I welcome the debate on this about the ''fresh look'' provisions in the bill and the debate in which we will be talking about what will be raised in the amendments. I think we need to look at all of the problems and make this the best bill possible to ensure that the potential financial liability to the U.S. taxpayer is resolved.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I rise in support of this legislation. I am going to focus on two issues that several of my colleagues have raised. The first is whether or not there is an existing monopoly in satellite telecommunications internationally. The facts are, contrary to what the gentleman from Maryland (Mr. WYNN) has mentioned, I guess it is in the eyes of the beholder how we look at it, but let me talk specifically about facts.

If one is in the United States of America and he wants to make a phone call or receive video from a location overseas that is serviced through a satellite system, the only way to do it, the only way, is through COMSAT. That is a statutory monopoly that this Congress had granted and has granted and is the existing law. That is a fact; there is a statutory monopoly in terms of communications through the INTELSAT system.

There are alternative ways, but in some locations there are not. In fact, if one wants to call Africa or Asia, or if one wants to send video from Iran back to America, there is just no other alternative. So that is the first issue. There is a statutory monopoly.

Let me also respond, we are going to have several amendments on this, but I think it is going to be the heart of a lot of the debate that is going to take place this morning, the issue of whether we are abrogating contracts and what that means. Since there is an existing monopoly, that monopoly had the power to have contracts, essentially forced contracts, monopoly contractual terms on a variety of consumers throughout the United States of America. And just as has been done previously in telecommunications issues, specifically regarding when AT&T broke up in terms of long-distance service, in a monopoly situation which did exist and does exist today, when we are breaking up the monopoly, which is appropriate in terms of service and price for our economy and every citizen of the United States, we have to view how those contracts were established, and those contracts were established in a monopoly situation. So it is clearly appropriate for us to make that change which is not precedent-making, which we have done previously on several occasions in telecommunications in addressing monopoly situations.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I rise today to commend the gentleman from Virginia (Mr. BLILEY), the chairman of the committee, and the gentleman from Massachusetts (Mr. MARKEY) for the fine work that they have done on this bill, and to urge my colleagues to support H.R. 1872.

This base bill aims to eliminate the last statutory monopoly in the U.S. telecommunications market by subjecting COMSAT to competition and taking steps to privatize INTELSAT and Inmarsat. Monopolies and organizations like international consortia may have made sense back in the 1960s when Congress first passed the Satellite Act, but they do not make sense today.

Having said that, I do think we need to examine thoroughly the Tauzin and Morella amendment. But the world has changed dramatically in the years since Congress enacted the Satellite Act. Technology and the economy have evolved to the point that it is possible for private companies to do what once we thought only governments could do.

So I rise in support of this bill.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

(Mr. GREEN asked and was given permission to revise and extend his remarks.)

Mr. GREEN. Mr. Chairman, I would like to thank my good friend from Michigan, our ranking member (Mr. DINGELL) for allowing me to speak for 2 minutes.

I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act. In committee several modifications were indicated to accommodate the concerns that I had, as well as other Members, and we believe that we have addressed the legitimate issues, and I urge my colleagues to support the bill.

I want to thank the gentleman from Virginia, (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for addressing the issues of the maritime concerns. Mr. Chairman, I would like to ask unanimous consent to place into the RECORD a letter to the Chairman of the committee, the gentleman from Virginia (Mr. BLILEY) from the Chamber of Shipping of America in support of the bill, in support of

the changes that were made, both in the committee and in the chairman's mark.

H.R. 1872 will start the privatization of both INTELSAT and Inmarsat. These global satellite network systems help provide services such as telephoning long distance and maritime safety services. The maritime industry plays an important role in my district, particularly because of the Port of Houston.

During committee consideration, concerns were expressed about the impact of this privatization effort on maritime safety services. I am particularly concerned with the Global Maritime Distress and Safety Service which is provided by COMSAT using the Inmarsat satellite system. Currently, the GMDSS that is connected to a ship's communication systems allows a vessel to reach maritime rescue services at the push of a button. The modifications made in committee and supported by the letter that I will put into the RECORD will take positive steps to maintain and assist and improve the GMDSS.

These modifications ensure that maritime safety devices and services will always be available to our shipping industry. For example, a provision was added which clarifies that the United States will not oppose the registration of orbital locations for Inmarsat replacement satellites.

H.R. 1872 also requires the FCC to consider equipment cost and design change and design life of maritime communications equipment when making a licensing decision. This provision, added, makes sure that the maritime industry's investments in communications equipment are not rendered useless or become too costly because of competition. This bill will help increase marketplace choice, and again, I urge passage of this bill. Mr. Chairman, at this time I include for the RECORD the letter previously referred to.

CHAMBER OF SHIPPING OF AMERICA,
Washington, DC, April 29, 1998.

Hon. THOMAS J. BLILEY,
Chairman, House Commerce Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN BLILEY: The purpose of this letter is to express our appreciation for your willingness to respond to our concerns outlined in our letter of February 26, 1998, with regard to the Communications Satellite Competition and Privatization Act, H.R. 1872.

As we indicated previously, our members are the end users of these systems and, as such, generally support the concept of privatization since, if properly done, will ultimately result in better service at a lower cost to the end user.

As you recall, our concerns related to continuity of service of the GMDSS and commercial maritime functions, as well as the need to mitigate substantial investments in new equipment by users who have recently made expenditures for equipment which interfaces with existing systems.

On review of the substitute bill and amendments as reported out of your Committee, we are pleased to find provisions that address our concerns, specifically as follows:

Section 601(b)(3), Clarification: Competitive Safeguards relating to the existence of non-core services at competitive rates, terms, or conditions.

Section 624 (2) and (7) relating to preservation, maintenance and improvement of the GMDSS.

Section 681(a) (11) and (21), Definitions relating to non-core services and GMDSS.

We understand these considerations to be several of many which the FCC will consider in future action. We urge you to include in the record language that reemphasizes these issues which are so critical to the continued safety of mariners worldwide and the continued reliability of the U.S. maritime industry.

Mr. Chairman, we know this has been a challenging issue for all involved and we truly appreciate your leadership in assuring the concerns of the maritime industry are adequately addressed. We look forward to continued work with you and your Committee in the future.

Sincerely,

KATHY J. METCALF,
Director, Maritime Affairs.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I want to commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for authoring this legislation.

Two years ago we passed historic legislation that has put us well down the road towards bringing telecommunications competition to all markets within the United States. With H.R. 1872, we take another major step towards reaching the same objective in the provision of international satellite services.

As we take this step, I want to draw attention to one of the bill's most important features, a provision called ''fresh look.'' ''Fresh look'' is a tool that is intended to accelerate the transition from monopoly to competition by giving purchasers of service a window of opportunity to renegotiate long-term contracts entered into under the assumption that the seller was and would continue to be the sole provider of service. It is a tool that has been used by the Federal Communications Commission in several proceedings. It has also been used by State public utility commissions in California, Colorado, Michigan and Ohio.

□ 1130

While the ''fresh look'' tool should not be abused, it is useful when employed, as it would be under this bill, to ensure that consumers are ready to realize near-term benefits from the opening of the market to competition.

Mr. Chairman, I support the bill and most particularly the open ''fresh look'' provisions.

The CHAIRMAN pro tempore (Mr. LAHOOD). The Chair would advise both sides they each have 13 minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) very much for yielding me this time.

Mr. Chairman, in 1945, a visionary, Arthur C. Clarke, began this international space odyssey in writing an article which pointed out that by the positioning of satellites at a point over the Earth's equator, it would be possible to create an international telecommunications satellite-driven system for all the entire world.

Now, this vision of Arthur C. Clarke was one that only really began to be implemented in 1962 with the creation of INTELSAT, a government-driven organization, necessarily because of the need for the missiles to shoot the satellites up and the government contracts to construct the satellites.

However, as the years have gone by, it has become clear that private sector companies as well can compete in this marketplace, and there have been dozens of companies, many of them successful, which have begun the process of entering these marketplaces. And so now the test for American and international policymakers is to match the vision of Arthur C. Clarke with the philosophy of Adam Smith. That is roofless, Darwinian capitalism. We must ensure that we have made a full injection into this international satellite cartel of the reality that they are competing for business with other companies.

Now, America has the lead in this field. We are number one, looking over our shoulders at number two and number three. The major obstacle to us leaping out into an almost insurmountable lead is this international cartel; government-granted, government-sanctioned, and 30 years old. It is time for us to end this cartel and allow these American-based satellite companies to get out and into international markets.

Now, why is this important? It is because as this Congress has voted for NAFTA, for GATT, for the WTO, we are essentially saying as a country that we are going to allow our low-end jobs to go to Third World countries. That is what we are saying. But in turn what we are saying, quite self-confidently, is that we believe that we can capture the lion's share of the high-end jobs, the technology-based jobs, the jobs that relate to the high education in our country.

We cannot allow an international cartel to continue to wall out American companies from the marketplaces of this planet because that is where our great high-tech education-based opportunities lie.

Otherwise, we have the worst of all worlds. Our low-end jobs go as Third World countries produce these manual labor products, but we do not gain access to the markets in these countries around the world where we can market our high-end products.

This bill telescopes the time frame that it will take for America to have its companies gain access to every single country in the world with the satellite-based services, and in every one

of the service areas. That is why we bring this bill to the floor today.

And it is not to put COMSAT out of business. COMSAT will remain in business. It will remain competitive. It will remain with the capacity to enter into any one of these markets, but only at the point at which it is privatized, only at the point at which COMSAT, with INTELSAT, has given up its monopoly.

Mr. Chairman, I again thank the gentleman from Michigan (Mr. DINGELL) for the time that he has yielded to me, and I hope that this legislation passes.

Mr. OXLEY. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Ohio (Mr. OXLEY) for yielding me this time. I appreciate the time and effort to discuss something that I find myself in agreement with.

And I congratulate the gentleman from Virginia (Chairman BLILEY) on his good works in this, and it is a pleasure for me to follow the gentleman from Massachusetts (Mr. MARKEY), my friend. It is not often that we agree, and it is great to hear the gentleman have discussions about Adam Smith.

Mr. Chairman, it is a pleasure to ask all of my colleagues to support H.R. 1872, a long overdue piece of legislation. The law we seek to amend here today is about as outdated as rotary dial telephones, and as obsolete as rabbit ears on a television set.

When the Satellite Act was written, a government-run consortium made sense. Today it simply does not. Private companies across the globe can now offer competitive, high-quality international satellite service, but only if we empower them to do so by passing this legislation, H.R. 1872, and eliminating the competitive advantages enjoyed by INTELSAT and Inmarsat.

A recent study prepared by the Satellite Users Coalition documented that passage of H.R. 1872 would produce cost savings reaching as high as $2.9 billion for the American consumers over the next 10 years. Additionally, this study went on to say and calculated that through the expected competition brought about by meaningful reform, consumers around the world could expect savings of $6.9 billion over that same period.

The most important consumer benefit, though, Mr. Chairman, however may not be the savings but rather the wealth of new innovation that competition will invariably bring to the satellite industry. More than 30 years ago, governments around the world had the best intentions when they took a risk and created an international satellite system. Back then, the goal was to push technology forward and expand the reach of the communication industry. Today it is clear that INTELSAT and Inmarsat have served their purpose.

Therefore, I urge my friends and colleagues to support H.R. 1872 and help us bring real competition to the market for satellite communications as soon as possible.

Mr. OXLEY. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I rise in support of H.R. 1872 and commend the gentleman from Virginia (Chairman BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for their strong leadership in bringing this issue to the floor.

There can be no doubt that the time has come for privatizing and restructuring the intergovernmental satellite organizations. While there may be some differences of opinion on the components as we move forward, there is certainly unanimity about the fact that privatization and increased competition in satellite communications are best for the marketplace and best for the consumer.

To illustrate this point, it is worth noting that a significant development has occurred since the Committee on Commerce acted on the bill. The international government organization INTELSAT, consisting of 142 member countries, agreed on March 30 of this year to move toward privatization by creating a private company separate from INTELSAT to compete in the commercial satellite marketplace. The member countries of INTELSAT, after a lengthy negotiation process heavily influenced by the United States, came to a unanimous agreement to voluntary spin off assets and create a new competitive entity.

While some may question whether this privatization effort is sufficiently procompetitive, it strongly demonstrates the recognition around the globe of the need to privatize and enhance competition in the international satellite market.

Mr. Chairman, I also believe that it clearly demonstrates the extent to which the leadership of the gentleman from Virginia (Mr. BLILEY) has garnered the attention of the industry and the markets, and for that the courage and leadership shown by the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Virginia (Mr. BLILEY) are to be commended.

Mr. Chairman, I encourage all Members to support this legislation.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. FORBES).

Mr. FORBES. Mr. Chairman, I thank the gentleman from Virginia for yielding me this time.

Mr. Chairman, I rise today in support of H.R. 1872, a much-needed measure which will provide improved and cost-effective international communications by allowing dozens of private sector companies to compete in the marketplace.

As we look to the global marketplace and we can think about the many people who have come to contribute to the greatness of this land, we know that there is a great need out there for many Americans, American consumers, to take advantage of lower cost in international communications. This measure provides for that in a different time in a different place. This measure is now greatly needed to replace the government-sponsored corporation that had a lock on this marketplace.

This is about real people needing to communicate in a cost-effective manner. Not about multinational corporations, real people who believe that this measure is long overdue: The Polish American Congress, the Hispanic Council on International Relations, the National Association of Latino and Appointed Elected Officials, the Armenian National Committee of America, the Cuban American Council, the National Council of La Raza and the Puerto Rican Legal Defense and Education Fund. These are real people who want to take advantage of lower cost communications and I urge adoption of the Bliley-Markey bill.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SHAYS).

(Mr. SHAYS asked and was given permission to revise and extend his remarks.)

Mr. SHAYS. Mr. Chairman, I thank the gentleman from Virginia (Mr. BLILEY) for this time, and also commend the gentleman from Massachusetts (Mr. MARKEY) for their bill and rise in strong support.

Mr. Chairman, I believe in real competition and meaningful choice, and this bill offers that.

Today the House will be considering important legislation designed to bring satellite communications technology into the modern age. I would like to commend the Chairman of the Commerce Committee, Mr. BLILEY, and his original cosponsor, Mr. MARKEY, for introducing H.R. 1872, the bill to privatize the intergovernmental satellite organizations. It has been endorsed by every private satellite services company and the major users of satellite services.

Two intergovernmental organizations dominate international satellite communications. They are called INTELSAT and Inmarsat. They are owned by a cartel like structure of all the world's state telephone companies. The same companies that control access to national markets, and thus keep out American companies that want to compete with these organizations.

H.R. 1872 privatizes the intergovernmental satellite organizations, and even more, does so in a pro-competitive manner. Now, they will never privatize pro-competitively on their own—they like either the status quo or a privatized monopoly. That is why the bill uses access to the U.S. market for advanced services as a lever to make sure they are privatized pro-competitively.

Comsat has a monopoly over sales of intergovernmental organization services in the U.S.—over 90 other countries permit competition for access to these organizations, and this bill brings us into line with the rest of the world. It also allows customers to renegotiate long-term ''take or pay'' contracts they were forced to sign by the COMSAT monopoly. Of course the monopoly wants to keep them locked in so consumers do not get the benefits of competition. But the bill, through the

very important "fresh look" provision allows customers to get the benefits of competition. I urge members to vote for the bill and oppose amendments designed to eliminate fresh look or the bills market access leverage.

Supporters of the status quo will try to divert the issue with rhetoric about takings or punishment of the monopoly, but these arguments are just a smokescreen for protecting the incumbent. Support H.R. 1872 today—reform is long overdue. Customers need lower prices, and new, American, competitors need access to foreign markets.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS).

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Virginia. Mr. Chairman, we are dealing with a structure today that is a dinosaur and H.R. 1872 remedies that. Thirty-five years is a long time since the original act and in the communications industry it is even a longer time. And since the act was passed originally, technology, the worldwide industry structure have changed dramatically. A monopoly structure might have been required at the time to develop a global network, but today it has become a problem, a dinosaur keeping rates far above the costs and limiting the service and facility innovation that we would otherwise get.

This legislation solves that problem. It opens up the international satellite markets to facilities-based competition, and it properly restricts the activities of the international satellite organizations until this goal is well on its way.

It permits providers other than COMSAT to directly access INTELSAT and Inmarsat so that rates for end users can go down more immediately. It allows customers to take advantage of these lower rates by permitting them to renegotiate contracts agreed upon when only a monopoly existed before.

As for COMSAT and the international organizations, it allows them to move ahead in this new competitive environment so long as they operate in the best interest of a competitive marketplace.

Mr. Chairman, if we want the 21st century to be America's century, we need to continue to restructure our competitive environment so that we can compete and maintain our edge globally and this legislation does that. This opens up tremendous potential for U.S. consumers and industry. I think that it is particularly good for the end users, the consumers around the globe.

And just as we have seen in the domestic telecommunications market, competition brings lower rates, better services, and increased technological innovations.

□ 1145

The very same benefits are going to come from this important bill in the international satellite marketplace. I think it deserves the support of everyone in this Chamber.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite and Privatization Act of 1998.

I believe this legislation will speed the transformation of two international satellite governmental bodies into competitive commercial organizations. The bill will bring competition to the international satellite industry and ultimately, in my judgment, lead to lower telephone rates on long distance international calls and improved services.

Long distance companies use satellites to complete many of their calls so the rates they pay for satellite time directly affects the rates consumers pay for international calls. More to the point, our constituents who have family members and friends serving in the military, the foreign service, or simply doing business overseas, will be able to reduce their long distance bills.

When the satellite technology was in its infancy in the early 1960s, it made sense for our government and many partnering governments to get together and boost the satellite industry. Today, though, it makes sense, with so many potential competitors, to open competition within this market in an effort to speed the benefit of lower international phone bills.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Chairman, I rise in support of the effort to bring competition to this very important effort in communications and satellites. In my home State of Mississippi, WorldCom, who would have believed the number one provider of Internet services would come from a rural State like Mississippi? This is what we have been trying to do since the telecommunications bill.

If we look at our efforts since 1994 to bring competition and deregulation in market after market, whether it is agriculture or telecommunications, and this is one more important area where we can make a difference by supporting this very important piece of legislation that will bring more competition, more choice, lower prices, and technology and innovation to the marketplace.

So with great honor, I rise in support of the efforts today of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) and look forward to supporting this very important legislation.

Mr. DINGELL. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, this is a most remarkable piece of legislation. It is a wonderful solution. It is a wonderful solution seeking most actively for a problem. As a matter of fact, it is rushing wildly from point to point to find some problem that it can solve.

In the process, it is knocking over the crockery and going to create enormous damage for the people of this country, for American industry, and for American telecommunications industries. It also is going to create enormous problems for the taxpayers of this Nation by subjecting them to enormous liability for an unconstitutional taking under the Tucker Act.

The allegation is made that COMSAT is a monopoly. The simple fact of the matter is that within the last week, on April 24, as a matter of fact, the FCC declared that the COMSAT Corporation is a nondominant telecommunications carrier.

As reported in the Wall Street Journal, FCC has found that COMSAT does not wield market power in 130 countries where it offers telephone services, 54 countries where it transfers occasional use of video, and in all countries where it offers long-term video needs.

COMSAT has better than 20 major competitors. It is the major competitors of COMSAT who are around here whining for relief. Who are these unfortunate, penniless, downtrodden competitors of COMSAT? They are PanAmSat, and this bill has been described as a PanAmSat relief bill by Wall Street.

PanAmSat just merged with Hughes and expects, if we pass this legislation, that they are going to cut a fat hog which will be paid for by the taxpayers, because we are expropriating, by the enactment of this legislation, property which belongs to COMSAT, Loral and AT&T which just merged, poor downtrodden, barefoot telecommunications giants; and Orion and Columbia, plus a wide array of others.

There is no real problem with monopoly here. Indeed, the market share of COMSAT has been declining. Another interesting thought, COMSAT is spinning off now its satellite services in which it invested its shareholders' money. Those are going into competition.

Talk about INTELSAT. INTELSAT is not a monopoly. It has a number of other competitors who are up there providing telecommunications services. This curious piece of legislation, I want to observe, is going to have virtually no consequences in terms of real increase in competition because, first of all, the competition that we are supposed to be trying to enforce is not being imposed on U.S. companies, but rather, we are trying to impose it on other companies in other countries around the world. A most remarkable set of circumstances, to assert the long reach of the arms of the United States Congress, to impose on other countries and on their industries' deregulation, a most curious practice.

But the last thing to which I want my colleagues to devote their attention is the simple fact that under the Tucker Act, the United States Congress is here engaging in an unlawful, unconstitutional, and improper and wrongful taking of assets belonging, not to the government, and not to a

wrongdoer, but simply to a U.S. corporation, COMSAT, and also an interference in the contract rights of companies which are subscribers and purchasers of service from COMSAT.

This action alone will subject the United States to billions of dollars in lawsuits and probably billions of dollars in compensation that we will have to pay, because we have interfered with the contract rights, not just of COMSAT, but in the contract rights of people who do business with COMSAT. We have interfered in a way which diminishes the value of the stock of the stockholders and the assets of COMSAT. Apart from the fact that this is wrong, it is also something which is protected by the Constitution.

Some of my friends have said, well, the Congress reserved to itself the right to amend the statute. We always do that. But we cannot, under the Constitution, reserve to ourselves the right to take the property of an American corporation.

The Congress did this a while back. Not many of my colleagues remember the time that we passed the Penn Central reorganization. But because we took property from Penn Central, the American taxpayers wound up having to pay $6.5 billion.

Penn Central is no longer a railroad. They are a holding company. They are listed on the New York Stock Exchange. They are making fine earnings on the basis of investments that they made with the money by which the Congress mistakenly enriched them because they did an unlawful taking; and under the Tucker Act, they are able to sue.

Let us just look at some of the liabilities that we are absorbing. I asked the staff to inquire to find out what it is that we will be looking at in terms of additional liability for the taxpayers. I remind my colleagues, these are American taxpayers who are going to have to pay.

I would tell my colleagues that over $3 billion is the potential liability for INTELSAT's business. That includes revenue from restriction on additional services, direct access, and ''fresh look,'' $623 million for restriction on replacement satellites carrying noncore services and a number of other items.

In addition to that, there will be over $4 billion in liabilities potential to Inmarsat from business losses there, over $157 million from restriction on additional services, $327 million from the ''fresh look'' provisions of the legislation, and other liabilities that this Congress is assuming on behalf of a bunch of fat cats who, I reiterate, are seeking to cut a fat hog at the expense not just of COMSAT, but at the expense of the American taxpayers.

When, in a few years, my colleagues observe that a lawsuit has been filed, get a hold of our wallet and be prepared to defend what we have done today, because we will have dissipated billions of dollars of the taxpayers' assets, and we will have imposed upon the United States an extortionate, unsatisfactory, and outrageous liability for serious constitutional misbehavior and for improper taking of property belonging to American citizens.

We are not playing games. We are not playing with foreigners. We are beating American citizens for the benefit of just a few fat cats who are doing splendidly and who, in terms of their earnings and their market share, are growing at an extraordinary rate.

Ask yourself, my colleagues, is this the way that this Congress should spend the budget surplus? Do we want to dissipate money because we have done something egregiously stupid today?

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has 4 minutes remaining, and the gentleman from Michigan (Mr. DINGELL) has 1 minute remaining.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. COX).

Mr. COX of California. Mr. Chairman, I am pleased to rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act, which will bring a notable and lasting achievement for the current Congress.

I would particularly like to commend the work of the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce, whose diligent efforts have made it possible for us to bring this important privatization initiative to the floor. It has significant bipartisan support.

The law that we are amending today, the Satellite Communications Act, was enacted in 1962. That was less than 5 years after the launch of Sputnik. We have to remember that, at that time, it was widely assumed that no private company could ever assume the financial burden of putting a satellite into orbit.

It should not have come as a surprise, therefore, that the 1962 Satellite Communications Act gave COMSAT and INTELSAT, the intergovernmental treaty organization which COMSAT helped create, a virtual monopoly on the world's international satellite business. It remains a profitable monopoly.

We have come a long way since 1962, and the myth that no private company could afford to get in the satellite business has long since been shattered. This is the right bill. I urge support for H.R. 1872. There is no longer any defensible reason for governments to be in the business of providing commercial satellite services.

□ 1200

Mr. DINGELL. Mr. Chairman, could the Chair tell us how much time is remaining?

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) has 1 minute remaining. The gentleman from Virginia (Mr. BLILEY) has 3 minutes remaining and the right to close.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time on the understanding the gentleman from Virginia is going to close.

I have made such good speeches, I am sure they will benefit the gentleman in his closing remarks.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time, and the first thing I would like to do is read a list here of who is supporting this bill:

AMSC, Boeing, Columbia Communications, Constellation Communications, Echostar, Final Analysis, GE Americom, ICG Satellite Services, Iridium LLC, Loral, Leo One USA, MCHI, Motorola, Orbital Communications, Orion Network Systems, PanAmSat, Sky Station International, Stratus Mobile Networks, Teledesic, TRW Space and Electronics Group, World Space Management Corporation.

Satellite users in support of the bill: AT&T, Coalition of Service Industries, General Electric Company/NBC, MCI, Sprint, Telecommunications Industry Association, World Com.

Ethnic groups: Americans For Tax Reform, Republican National Hispanic Assembly, Armenian National Committee of America, ASPIRA, Cuban American National Council, Hispanic Council on International Relations, National Association of Latino Elected and Appointed Officials, National Council of La Raza, Polish American Congress, Puerto Rican Legal Defense Fund.

I would also like to speak about the so-called ''taking.'' This bill does not, does not, result in an unconstitutional taking of COMSAT's property. Our bill does not take COMSAT's property in its contracts. We merely give customers the right to renegotiate. This type of economic regulation is constitutional.

The FCC has used ''fresh look'' four times in the past and no one claimed takings. We are not like the Penn Central Railroad. That was track and other equipment. We do not take any of their equipment.

In 1962, Congress reserved the right to regulate satellites at any time and to change the deal. COMSAT has no reasonable expectation amounting to a property right that the regulatory regime would not be altered. The Supreme Court in 50 years has not ruled on a ''fresh look'' case. Not in 50 years.

The share of the market for international satellite-based public switch network service, voice and facsimile, 90 percent of it, is held by COMSAT and INTELSAT. AT&T, MCI and Sprint, yes, they have cables, but they have to have a contract with COMSAT for redundancy in case the cable gets severed so they do not lose their customers.

I urge all Members to resist amendments and to support the bill as reported by voice vote out of the committee.

Mr. TOWNS. Mr. Chairman, I rise today in support of H.R. 1872, the Communications

Satellite Competition and Privatization Act. This legislation will serve to create a competitive, free enterprise environment in both the domestic and international satellite marketplace.

As our global economy moves towards a more competitive marketplace, H.R. 1872 would also bring lower prices, increase competition, and spur technological innovation. Although I applaud the goals of H.R. 1872, I believe that certain provisions within the bill are misguided and punitive.

Specifically, H.R. 1872 contains restrictions that will limit the services that Comsat can offer using its satellite services. The current language provides that if certain rigid milestones are not met, Comsat would be forced to stop marketing certain services offered. If adopted, this provision would give rise to a ''takings'' claim under the Constitution, and would result in tremendous tax liabilities for consumers. As a supporter of fair and open competition, I cannot condone such punitive measures, and will support the amendment offered by the gentlelady from Maryland, Representative CONNIE MORELLA, which would permit Comsat to continue to use its property and prohibit the FCC from implementing the service restriction in a manner that would result in a government ''takings''.

H.R. 1872 also contains a provision that would severely limit Comsat's ability to engage in binding contractual agreements. Proponents of the measure argue that ''Comsat has 'locked up' the market with long-term contracts'' and, therefore, customers of Comsat should be afforded the opportunity to unilaterally breach their contracts so that they make them a ''fresh look'' at any available competitor in the marketplace. While I agree that every business should be given an opportunity to compete on a level playing field, I also believe that the stability of our global marketplace depends on maintaining fairly bargained contractual agreements. To date, there has not been any evidence to prove any anti-competitive contractual negotiations by any of the satellite companies. The strength of the U.S. economy, and even the world economy, depends on contractual stability. This overarching principle secures my support for the amendment offered by the gentleman from Louisiana, Representative BILLY TAUZIN (R–LA).

Let me be clear. I believe that H.R. 1872 will promote fair and open competition in the global satellite industry. Moreover, I believe H.R. 1872 will create jobs for all of our communities. At the end of the day, the most important question we must ask ourselves is what did we do to benefit the citizens of this great country.

Mr. Chairman, I urge my colleagues to vote Yes on the Morella and Tauzin amendments and Yes on the final passage of H.R. 1872.

Mr. DINGELL. Mr. Chairman, I would like to call my colleagues' attention to the extraordinary discrepancies between the black-letter law of the statutory text and the contents of the Committee Report. If any of my colleagues would like to know why the judiciary pays little attention to the legislative history when attempting to interpret the statutes we write, the Report to accompany this bill provides a magnificent example. The Committee Report on H.R. 1872 is as accurate a reflection of intentions of the Committee when it considered H.R. 1872 as was yesterday's Washington Post, although I think that the Post made better reading.

While this is unfortunate, and will contribute to the decline in the importance of committee reports as legislative history, I am particularly concerned about the way in which the Report treats the Committee's work with respect to proposed Section 641, and in particular those dealing with ''Direct Access.''

During the Telecommunications Subcommittee's consideration of H.R. 1872, I offered an amendment to proposed Section 641 which made significant revisions in the ''Direct Access'' provisions. After I offered and explained my amendment, it was accepted by the Chairman of the Committee and approved without dissent.

The provisions in the Committee Report do not reflect the plain text of my amendment, nor my intentions as its author.

LEGISLATIVE HISTORY OF SECTION 641

Section 641 is entitled ''Direct Access; Treatment of COMSAT at Nondominant Carrier.'' This Section requires the Commission to take those actions that may be necessary to permit providers and users of telecommunications services to obtain direct access to INTELSAT and Inmarsat telecommunication services. Section 641 also requires the Commission to act on Comsat's petition to be treated as a non-dominant carrier, and to eliminate any of its regulations on the availability of direct access to INTELSAT or Inmarsat, or to any successor entities, after a pro-competitive privatization of this intergovernmental treaty organizations (''IGOs'') is achieved consistent with this statute.

Subsection 641(1) addresses direct access to INTELSAT telecommunications service through either purchases of space segment capacity in accordance with subsection 641(1)(A) or through investment in INTELSAT in accordance with subsection 641(1)(B).

Specifically, Subsection 641(1)(A) provides that providers or users of telecommunications service may purchase space segment capacity from INTELSAT, as of January 1, 2000, if the Commission determines that (i) INTELSAT has adopted a usage charge mechanism that ensures fair compensation to INTELSAT signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime (for example, costs for insurance, administrative, and other operations and maintenance expenditures); (ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate of a foreign signatory, is permitted to order space segment directly from INTELSAT in order to provide any service subject to the Commission's jurisdiction; and (iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority.

Subsection 641(1)(B) requires that providers or users of telecommunications service may obtain direct access to INTELSAT telecommunications services through investment in INTELSAT as of January 1, 2002, if the Commission finds that such investment will be attained under procedures that assure fair compensation to INTELSAT signatories for the market value of their investments.

Subsection 641(2) addresses direct access to Inmarsat telecommunications services through either purchases of space segment capacity in accordance with subsection 641(2)(A), or through investment in Inmarsat in accordance with subsection 641(2)(B).

Specifically, subsection 641(2)(A) provides that providers or users of telecommunciations service may purchase space segment capacity from Inmarsat, as of January 1, 2000, if the Commission determines that (i) Inmarsat has adopted a usage charge mechanism that ensures fair compensation to Inmarsat signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime (for example, costs for insurance, administrative, and other operations and maintenance expenditures); (ii) the Commission's regulations ensure that no foreign signatory, nor its affiliate, is permitted to order space segment directly from Inmarsat in order to provide any service subject to the Commission's jurisdiction; and (iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority.

Subsection 641(2)(B) requires that providers or users of telecommunications service may obtain direct access to Inmarsat telecommunications services through investment in Inmarsat as of January 1, 2001, if the Commission finds that such investment will be attained under procedures that assure fair compensation to Inmarsat signatories for the market value of their investments.

Subsection 641(3) requires the Commission to act on Comsat's petition to be treated as a non-dominant carrier for the purposes of the Commission's regulations according to the provisions of section 10 of the Communications Act of 1934 (47 U.S.C. § 160).

Subsection 641(4) requires the Commission to eliminate any regulation on the availability of direct access to INTELSAT or Inmarsat or to any successor entities after a pro-competitive privatization of those intergovernmental satellite organizations is achieved.

CRITIQUE OF LEGISLATIVE HISTORY

The language contained in the Committee Report is replete with instances in which the report is substantially more punitive to Comsat than the text of the legislation adopted by the Committee. As discussed below, the portion of the Report describing Section 641 is filled with inconsistencies and descriptions of provisions that neither appear in the text nor were discussed by the Committee. Not only are there numerous internal inconsistencies, but when the description in the Report is compared with the actual text of H.R. 1872, the factual misrepresentations become apparent.

The first sentence of this portion of the Report says that: ''New sections 641(1) and 641(2) require the Commission to permit competitors to offer services through direct access to the INTELSAT and Inmarsat systems.'' The legislation requires the Commission to permit providers and users of telecommunications services to obtain telecommunications services directly for INTELSAT and Inmarsat.

The Report also states that if ''the Inmarsat Operating Agreement is terminated, former signatories, including COMSAT for the provision of services in the United States, should not be the exclusive distributors of Inmarsat services.'' The Report continues: ''the U.S. Administration and the Commission should, in the public interest, ensure that any Inmarsat privatization plan includes direct access until full privatization is fully implemented.'' Neither of these provisions are contained in the text of the bill, nor were they discussed when my amendment was accepted.

In its description of sections 641(1)(A)(i) through (iii), the Report again misrepresents the requirements of the statute. First, the Report states that these sections ''describe the circumstances which the Commission should determine are present when the Commission implements direct access through

purchases of space segment capacity from INTELSAT.'' First, the provisions of the bill do not require the Commission to implement direct access. Rather, the bill requires the Commission to ensure that it is possible for carriers and users to obtain direct access. Additionally, this statement suggests that the Commission's analysis will be conducted simultaneously with the occurrence of direct access, when in fact the plain language of the legislative text requires that the Commission determine if the conditions set forth in sections 641(1)(A)(i) through (iii) are met prior to permitting direct access.

The Report's description of the conditions for ensuring direct access is possible is also inaccurate. In particular, sections 641(1)(A)(ii) and (2)(A)(ii) require that no foreign signatory or its affiliate are permitted to provide INTELSAT or Inmarsat services from the United States. The text of the Report incorrectly limits this condition to foreign signatories. Moreover, the Report claims that sections 641(1)(A)(iii) and (2)(A)(iii) require the Commission to ensure that carriers pass savings through to end-users. The statute, however, requires only that the Commission have ''in place a means to ensure'' that carriers will be required to pass savings through to end-users.

The description of sections 641(1)(A)(i) and (2)(A)(i) also diverges from the text of the bill. In particular, the text of H.R. 1872 does not contain the limitations on ''unavoided costs'' that the Report suggests. For example, the Report provides that ''the only costs covered by this section are those unavoidable signatory expenses in excess of all payments to signatories from the IGOs.'' This limitation is not present in the legislative text. Rather, the text of H.R. 1872 only refers to ''support costs that such signatories would not otherwise be able to avoid . . .'' Moreover, the Report states that: ''If such costs are in excess of or not covered by the IUC or by other payments to INTELSAT or Inmarsat, then this section shall be satisfied if INTELSAT or Inmarsat has in place or create a mechanism or other methodology or legal regime which permits (or does not preclude) parties . . . to adopt means to ensure that such unavoidable, excess signatory costs are covered by payments from other direct access providers or otherwise covered or fairly compensated.'' Again, there is no such provision in the statute.

The Report contains a requirement that the Commission implement new subsections 641(1)(a)(ii) and 2(a)(ii) in a manner consistent with U.S. obligations in World Trade Organization (''WTO'') and to consult with Executive Branch agencies in this regard. Again, the text of the statute contains no such provision. Moreover, direct access itself appears to be inconsistent with the United States' Schedule of Specific Commitments agreed to in the WTO Basic Telecom Agreement.

In particular, the U.S. Schedule of Specific Commitments limits, *inter alia,* direct access to INTELSAT and Inmarsat to Comsat, the U.S. Signatory to those IGOs, for the provision of basic telecommunications services. As the Commission noted in implementing the WTO, this Schedule makes no distinction with respect to international service and U.S. domestic services. Rather, it maintains access to INTELSAT and Inmarsat satellites through Comsat for the provision of any service, domestic or international. Thus, any action by the U.S. Government permitting carriers to have direct access to space segment from INTELSAT will conflict with this Schedule of Specific Commitments because it will permit carriers to circumvent Comsat.

In describing subsections 641(1)(A)(iii) and (2)(A)(iii), the Report states that: ''The Committee does not intend for the Commission to implement any form of carrier regulation or reporting requirement that would reinstate or be tantamount to dominant carrier regulation on carriers found to be non-dominant before the Committee's consideration of H.R. 1872 . . . [however] [t]he foregoing sentence does not apply to COMSAT . . .'' This provision penalizes Comsat by name even in those markets where the Commission has determined it is non-dominant. Needless to say, there is no basis for the provision contained in the Committee Report, either in the text of the legislation or in the Committee debate when the provision was adopted.

In its description of subsections 641(1)(A)(iii) and (2)(A)(iii), the Report states that the requirement that the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of direct access authority will be met ''if the Commission finds that competition resulting from direct access will result in savings to consumers over what they might pay in the absence of direct access.'' Thus, if one were to rely on the description in the Report one would assume that the Commission has an affirmative obligation to undertake an analysis of whether competition will result in savings to consumers. By contrast, the text of the legislation requires only that the Commission have a means in place to ensure that cost savings are passed on to end users. Once again, the text of the bill contradicts the description of that provision in the Report.

Finally, the Report describes subsection 641(4) as requiring ''the Commission to sunset any regulation providing for direct access to INTELSAT or Inmarsat when these organizations fully privatize . . . ''It is unclear how the Commission would ''sunset'' a regulation. Actually, the statute requires the Commission to ''eliminate'' any regulation on the availability of direct access. Moreover, the Report limits the scope of this provision to INTELSAT and Inmarsat and neglects the fact that ''any successor entities'' of INTELSAT and Inmarsat are included in the statute.

The legislative history contained in this Committee Report constitutes a monument to those who would dismiss committee reports as legitimate expressions of Congressional intent. This legislative history is fraught with factual inconsistencies and would lead even the staunchest defender of statutory construction to cringe. It is a blatant attempt to rewrite a bill through its legislative history. As a member of Congress, I am, quite frankly, offended by this, although I cannot say that I am surprised by it. We should aspire to have as our legacy statutes of major importance that speak to the public in plain and ordinary terms. As an integral part of those statutes, the legislative history should enhance, not attempt to redefine, the fruits of our efforts. As the Supreme Court has held: ''In ascertaining the meaning of a statute, a court cannot, in the manner of Sherlock Holmes, pursue the theory of the dog that did not bark.'' See *Harrison* v. *PPG Industries, Inc.,* 446 U.S. 578, 592, 64 L.Ed. 2d 525, 100 S. Ct. 1889 (1980).

Ms. DELAURO. Mr. Chairman, I rise in support of the Communications Satellite Competition and Privatization Act.

This bill will privatize the two Intergovernmental Satellite Organizations, Intelsat and Inmarsat—opening the international satellite market to the wide range of American firms eager to compete in it. American ideas and ingenuity have made this country great. It is our responsibility, as members of Congress, to encourage these values, not stifle them.

Passage of this bill also will represent a victory for average American consumers. Privatization of this market will save consumers as much as $2.9 billion over the next decade. At a time when American men and women work hard every day to find new ways to make ends meet for their families, it is essential that we help them in their search.

We need a modern satellite market that provides America and the world with high-quality products at affordable prices. We need to continue to encourage the hard work and innovation that has made this nation a world leader. Support the Communications Satellite Competition and Privatization Act.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998. In 1962, the U.S. became part of the international satellite communications organizations. These monopoly organizations are a relic of an earlier time when there were only a few network television stations and rotary phones were the norm. The telecommunications industry changes rapidly each year and we are over a generation away from 1962.

It was not too long ago that cellular phones were cutting edge technology and the Internet was used exclusively by university professors. Now millions of Americans are enjoying these telecommunications services as markets are deregulated in this country. H.R. 1872 continues this trend which will potentially create thousands of new jobs, save U.S. consumers billions of dollars, and create new markets for U.S. businesses.

I commend the work of Commerce Committee Chairman TOM BLILEY and Congressman MARKEY for their work in crafting this important bi-partisan bill.

Mr. ADERHOLT. Mr. Chairman, I rise today in support of H.R. 1872 which would open the international satellite market to full competition and encourage the long-overdue privatization of Intelsat and Inmarsat.

H.R. 1872 is a good bill, and it has been endorsed by a wide variety of concerned citizen groups, including Americans for Tax Reform, which notes that ''this bill will lower the costs of satellite communications to government—money that would otherwise come out of the pockets of hard-working Americans.''

And if saving the American taxpayer money is not in and of itself sufficient reason to vote for H.R. 1872, Americans for Tax Reform also correctly notes that we should be trying to expand the reach of the free market, not letting United Nations-like organizations and state-owned foreign telephone companies keep U.S. firms from gaining access to foreign markets. H.R. 1872 would solve these problems and get the government out of the way so that America's telecommunications and aerospace industries can provide new and innovative services to consumers around the world.

I urge my colleagues to join me in supporting H.R. 1872.

Mr. DAVIS of Florida. Mr. Chairman, as a co-sponsor of this important legislation, I rise today in strong support for H.R. 1872, the Communications Satellite Competition and Privatization Act. In short, this bill will reform our 1960's era satellite telecommunications policy and promote competition in satellite services and technology.

Over thirty-five years ago, when Congress passed the 1962 Communications Satellite

Act, it was believed that only governments could finance and manage a global satellite system. Today, the rapid advances and growth within the telecommunications industry far surpass anything we could have imagined in the early 1960's. Today, there is no longer a need for a privileged international organization to provide satellite communications services in competition with private commercial services. Passage of this legislation will break up the last lawful telecommunications monopoly in the United States and bring greater competition, innovation, and efficiency to the international satellite industry.

This bill embodies the belief that open competitive markets will result in greater benefits to the industry, the economy, and most importantly, the consumers. While over 85 other nations have allowed direct access to INTELSAT and Inmarsat services, the United States market remains monopolized by COMSAT. The result is that U.S. satellite consumers pay inflated prices. A recent study showed that the privatization called for under H.R. 1872 would save consumers $2.9 billion over the next ten years. Furthermore, this legislation will save U.S., taxpayers $700 million by cutting the costs of government communications.

Mr. Chairman, the bill before us today will finally bring satellite communications policy into the modern era. It recognizes that the current system distorts the marketplace and takes reasonable and modest steps to ensure competition bringing lower prices and higher quality services for satellite users. This bill is good for consumers, good for businesses and workers, and good for the United States taxpayer. I urge all of my colleagues to support H.R. 1872.

Mr. HASTERT. Mr. Chairman, we all know satellite technology is moving at light-year speed, and that our manufacturers are the best in the world. However, the 30-year-old law under which they operate needs to be updated for the twenty-first century.

Private companies like Motorola, PanAmSat and Teledesic are planning ventures that would have been unthinkable three decades ago. Consider Motorola for a moment—Its network of more than 60 satellites, known as Iridium, will soon begin providing voice and paging services. Further down the road is its proposal to complete a network of more than 70 satellites, known as Celestri, in order to provide high-speed data and video services worldwide.

Mr. Chairman, I believe the effect of this legislation will be a boon to consumers as they benefit from the increased efficiency and lower costs that competition brings. Although IntelSat and InMarSat have served us well, we all know it's time for these organizations to join other cold war relics on the scrap heap of history.

Mr. LUCAS of Oklahoma. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998.

When Congress set up a satellite monopoly with the Satellite Act of 1962, few people could imagine a day when you could warm up dinner in 60 seconds with a microwave or put a plastic card into an automatic teller machine to get money 24 hours a day. And Congress did not think that private industry could afford to put satellites up into space. With that 1960's logic, Congress created a satellite monopoly to ensure the United States would not be left behind.

Clearly, my friends, times have changed since then, and now we have many private businesses that are ready to invest in the satellite industry. In short, the private sector is ready for competition in this industry. But the major roadblock to competition is an outdated Federal law that needs to be brought into the 1990's and bridge us to next Millennium. That's why I'm supporting H.R. 1872, a bill that breaks down decades old barriers to competition by eliminating the bottleneck that has kept satellite rates artificially high. It's time for government to get out of the way and let competition brings its benefits of lower rates and enhanced technology to the satellite industry.

Mr. BLILEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Communications Satellite Competition and Privatization Act of 1998''.

SEC. 2. PURPOSE.

It is the purpose of this Act to promote a fully competitive global market for satellite communication services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the intergovernmental satellite organizations, INTELSAT and Inmarsat.

SEC. 3. REVISION OF COMMUNICATIONS SATELLITE ACT OF 1962.

The Communications Satellite Act of 1962 (47 U.S.C. 101) is amended by adding at the end the following new title:

''TITLE VI—COMMUNICATIONS COMPETITION AND PRIVATIZATION

''Subtitle A—Actions To Ensure Procompetitive Privatization

''SEC. 601. FEDERAL COMMUNICATIONS COMMISSION LICENSING.

''(a) LICENSING FOR SEPARATED ENTITIES.—

''(1) COMPETITION TEST.—The Commission may not issue a license or construction permit to any separated entity, or renew or permit the assignment or use of any such license or permit, or authorize the use by any entity subject to United States jurisdiction of any space segment owned, leased, or operated by any separated entity, unless the Commission determines that such issuance, renewal, assignment, or use will not harm competition in the telecommunications market of the United States. If the Commission does not make such a determination, it shall deny or revoke authority to use space segment owned, leased, or operated by the separated entity to provide services to, from, or within the United States.

''(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621 and 623, and shall not make such a determination unless the Commission determines that the privatization of any separated entity is consistent with such criteria.

''(b) LICENSING FOR INTELSAT, INMARSAT, AND SUCCESSOR ENTITIES.—

''(1) COMPETITION TEST.—The Commission shall substantially limit, deny, or revoke the authority for any entity subject to United States jurisdiction to use space segment owned, leased, or operated by INTELSAT or Inmarsat or any successor entities to provide non-core services to, from, or within the United States, unless the Commission determines—

''(A) after January 1, 2002, in the case of INTELSAT and its successor entities, that INTELSAT and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States; or

''(B) after January 1, 2001, in the case of Inmarsat and its successor entities, that Inmarsat and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States.

''(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621, 622, and 624, and shall not make such a determination unless the Commission determines that such privatization is consistent with such criteria.

''(3) CLARIFICATION: COMPETITIVE SAFEGUARDS.—In making its licensing decisions under this subsection, the Commission shall consider whether users of non-core services provided by INTELSAT or Inmarsat or successor or separated entities are able to obtain non-core services from providers offering services other than through INTELSAT or Inmarsat or successor or separated entities, at competitive rates, terms, or conditions. Such consideration shall also include whether such licensing decisions would require users to replace equipment at substantial costs prior to the termination of its design life. In making its licensing decisions, the Commission shall also consider whether competitive alternatives in individual markets do not exist because they have been foreclosed due to anticompetitive actions undertaken by or resulting from the INTELSAT or Inmarsat systems. Such licensing decisions shall be made in a manner which facilitates achieving the purposes and goals in this title and shall be subject to notice and comment.

''(c) ADDITIONAL CONSIDERATIONS IN DETERMINATIONS.—In making its determinations and licensing decisions under subsections (a) and (b), the Commission shall take into consideration the United States obligations and commitments for satellite services under the Fourth Protocol to the General Agreement on Trade in Services.

''(d) INDEPENDENT FACILITIES COMPETITION.—Nothing in this section shall be construed as precluding COMSAT from investing in or owning satellites or other facilities independent from INTELSAT and Inmarsat, and successor or separated entities, or from providing services through reselling capacity over the facilities of satellite systems independent from INTELSAT and Inmarsat, and successor or separated entities. This subsection shall not be construed as restricting the types of contracts which can be executed or services which may be provided by COMSAT over the independent satellites or facilities described in this subsection.

''SEC. 602. INTELSAT OR INMARSAT ORBITAL LOCATIONS.

''(a) REQUIRED ACTIONS.—Unless, in a proceeding under section 601(b), the Commission determines that INTELSAT or Inmarsat have been privatized in a manner that will not harm competition, then—

''(1) the President shall oppose, and the Commission shall not assist, any registration for new orbital locations for INTELSAT or Inmarsat—

''(A) with respect to INTELSAT, after January 1, 2002, and

''(B) with respect to Inmarsat, after January 1, 2001, and

''(2) the President and Commission shall, consistent with the deadlines in paragraph (1), take all other necessary measures to preclude procurement, registration, development, or use of

new satellites which would provide non-core services.

''(b) EXCEPTION.—

''(1) REPLACEMENT AND PREVIOUSLY CONTRACTED SATELLITES.—Subsection (a) shall not apply to—

''(A) orbital locations for replacement satellites (as described in section 622(2)(B)), and

''(B) orbital locations for satellites that are contracted for as of March 25, 1998, if such satellites do not provide additional services.

''(2) LIMITATION ON EXCEPTION.—Paragraph (1) is available only with respect to satellites designed to provide services solely in the C and Ku, for INTELSAT, and L, for Inmarsat, bands.

"SEC. 603. ADDITIONAL SERVICES AUTHORIZED.

''(a) SERVICES AUTHORIZED DURING CONTINUED PROGRESS.—

''(1) CONTINUED AUTHORIZATION.—The Commission may issue an authorization, license, or permit to, or renew the license or permit of, any provider of services using INTELSAT or Inmarsat space segment, or authorize the use of such space segment, for additional services (including additional applications of existing services) or additional areas of business, subject to the requirements of this section.

''(2) ADDITIONAL SERVICES PERMITTED UNDER NEW CONTRACTS UNLESS PROGRESS FAILS.—If the Commission makes a finding under subsection (b) that conditions required by such subsection have not been attained, the Commission may not, pursuant to paragraph (1), permit such additional services to be provided directly or indirectly under new contracts for the use of INTELSAT or Inmarsat space segment, unless and until the Commission subsequently makes a finding under such subsection that such conditions have been attained.

''(3) PREVENTION OF EVASION.—The Commission shall, by rule, prescribe means reasonably designed to prevent evasions of the limitations contained in paragraph (2) by customers who did not use specific additional services as of the date of the Commission's most recent finding under subsection (b) that the conditions of such subsection have not been obtained.

''(b) REQUIREMENTS FOR ANNUAL FINDINGS.—

''(1) GENERAL REQUIREMENTS.—The findings required under this subsection shall be made, after notice and comment, on or before January 1 of 1999, 2000, 2001, and 2002. The Commission shall find that the conditions required by this subsection have been attained only if the Commission finds that—

''(A) substantial and material progress has been made during the preceding period at a rate and manner that is probable to result in achieving pro-competitive privatizations in accordance with the requirements of this title; and

''(B) neither INTELSAT nor Inmarsat are hindering competitors' or potential competitors' access to the satellite services marketplace.

''(2) FIRST FINDING.—In making the finding required to be made on or before January 1, 1999, the Commission shall not find that the conditions required by this subsection have been attained unless the Commission finds that—

''(A) COMSAT has submitted to the INTELSAT Board of Governors a resolution calling for the pro-competitive privatization of INTELSAT in accordance with the requirements of this title; and

''(B) the United States has submitted such resolution at the first INTELSAT Assembly of Parties meeting that takes place after such date of enactment.

''(3) SECOND FINDING.—In making the finding required to be made on or before January 1, 2000, the Commission shall not find that the conditions required by this subsection have been attained unless the INTELSAT Assembly of Parties has created a working party to consider and make recommendations for the pro-competitive privatization of INTELSAT consistent with such resolution.

''(4) THIRD FINDING.—In making the finding required to be made on or before January 1, 2001, the Commission shall not find that the conditions required by this subsection have been attained unless the INTELSAT Assembly of Parties has approved a recommendation for the pro-competitive privatization of INTELSAT in accordance with the requirements of this title.

''(5) FOURTH FINDING.—In making the finding required to be made on or before January 1, 2002, the Commission shall not find that the conditions required by this subsection have been attained unless the pro-competitive privatization of INTELSAT in accordance with the requirements of this title has been achieved by such date.

''(6) CRITERIA FOR EVALUATION OF HINDERING ACCESS.—The Commission shall not make a determination under paragraph (1)(B) unless the Commission determines that INTELSAT and Inmarsat are not in any way impairing, delaying, or denying access to national markets or orbital locations.

''(c) EXCEPTION FOR SERVICES UNDER EXISTING CONTRACTS IF PROGRESS NOT MADE.—This section shall not preclude INTELSAT or Inmarsat or any signatory thereof from continuing to provide additional services under an agreement with any third party entered into prior to any finding under subsection (b) that the conditions of such subsection have not been attained.

"Subtitle B—Federal Communications Commission Licensing Criteria: Privatization Criteria

"SEC. 621. GENERAL CRITERIA TO ENSURE A PRO-COMPETITIVE PRIVATIZATION OF INTELSAT AND INMARSAT.

''The President and the Commission shall secure a pro-competitive privatization of INTELSAT and Inmarsat that meets the criteria set forth in this section and sections 622 through 624. In securing such privatizations, the following criteria shall be applied as licensing criteria for purposes of subtitle A:

''(1) DATES FOR PRIVATIZATION.—Privatization shall be obtained in accordance with the criteria of this title of—

''(A) INTELSAT as soon as practicable, but no later than January 1, 2002, and

''(B) Inmarsat as soon as practicable, but no later than January 1, 2001.

''(2) INDEPENDENCE.—The successor entities and separated entities of INTELSAT and Inmarsat resulting from the privatization obtained pursuant to paragraph (1) shall—

''(A) be entities that are national corporations; and

''(B) have ownership and management that is independent of—

''(i) any signatories or former signatories that control access to national telecommunications markets; and

''(ii) any intergovernmental organization remaining after the privatization.

''(3) TERMINATION OF PRIVILEGES AND IMMUNITIES.—The preferential treatment of INTELSAT and Inmarsat shall not be extended to any successor entity or separated entity of INTELSAT or Inmarsat. Such preferential treatment includes—

''(A) privileged or immune treatment by national governments;

''(B) privileges or immunities or other competitive advantages of the type accorded INTELSAT and Inmarsat and their signatories through the terms and operation of the INTELSAT Agreement and the associated Headquarters Agreement and the Inmarsat Convention; and

''(C) preferential access to orbital locations, including any access to orbital locations that is not subject to the legal or regulatory processes of a national government that applies due diligence requirements intended to prevent the warehousing of orbital locations.

''(4) PREVENTION OF EXPANSION DURING TRANSITION.—During the transition period prior to full privatization, INTELSAT and Inmarsat shall be precluded from expanding into additional services (including additional applications of existing services) or additional areas of business.

''(5) CONVERSION TO STOCK CORPORATIONS.—Any successor entity or separated entity created out of INTELSAT or Inmarsat shall be a national corporation established through the execution of an initial public offering as follows:

''(A) Any successor entities and separated entities shall be incorporated as private corporations subject to the laws of the nation in which incorporated.

''(B) An initial public offering of securities of any successor entity or separated entity shall be conducted no later than—

''(i) January 1, 2001, for the successor entities of INTELSAT; and

''(ii) January 1, 2000, for the successor entities of Inmarsat.

''(C) The shares of any successor entities and separated entities shall be listed for trading on one or more major stock exchanges with transparent and effective securities regulation.

''(D) A majority of the board of directors of any successor entity or separated entity shall not be subject to selection or appointment by, or otherwise serve as representatives of—

''(i) any signatory or former signatory that controls access to national telecommunications markets; or

''(ii) any intergovernmental organization remaining after the privatization.

''(E) Any transactions or other relationships between or among any successor entity, separated entity, INTELSAT, or Inmarsat shall be conducted on an arm's length basis.

''(6) REGULATORY TREATMENT.—Any successor entity or separated entity shall apply through the appropriate national licensing authorities for international frequency assignments and associated orbital registrations for all satellites.

''(7) COMPETITION POLICIES IN DOMICILIARY COUNTRY.—Any successor entity or separated entity shall be incorporated and headquartered in a nation or nations that—

''(A) have effective laws and regulations that secure competition in telecommunications services;

''(B) are signatories of the World Trade Organization Basic Telecommunications Services Agreement; and

''(C) have a schedule of commitments in such Agreement that includes non-discriminatory market access to their satellite markets.

''(8) RETURN OF UNUSED ORBITAL LOCATIONS.—INTELSAT, Inmarsat, and any successor entities and separated entities shall not be permitted to warehouse any orbital location that—

''(A) as of March 25, 1998, did not contain a satellite that was providing commercial services, or, subsequent to such date, ceased to contain a satellite providing commercial services; or

''(B) as of March 25, 1998, was not designated in INTELSAT or Inmarsat operational plans for satellites for which construction contracts had been executed.

Any such orbital location of INTELSAT or Inmarsat and of any successor entities and separated entities shall be returned to the International Telecommunication Union for reallocation.

''(9) APPRAISAL OF ASSETS.—Before any transfer of assets by INTELSAT or Inmarsat to any successor entity or separated entity, such assets shall be independently audited for purposes of appraisal, at both book and fair market value.

''(10) LIMITATION ON INVESTMENT.—Notwithstanding the provisions of this title, COMSAT shall not be authorized by the Commission to invest in a satellite known as K–TV, unless Congress authorizes such investment.

"SEC. 622. SPECIFIC CRITERIA FOR INTELSAT.

''In securing the privatizations required by section 621, the following additional criteria with respect to INTELSAT privatization shall be applied as licensing criteria for purposes of subtitle A:

''(1) NUMBER OF COMPETITORS.—The number of competitors in the markets served by INTELSAT, including the number of competitors created out of INTELSAT, shall be sufficient to create a fully competitive market.

''(2) PREVENTION OF EXPANSION DURING TRANSITION.—

''(A) IN GENERAL.—Pending privatization in accordance with the criteria in this title, INTELSAT shall not expand by receiving additional orbital locations, placing new satellites in existing locations, or procuring new or additional satellites except as permitted by subparagraph (B), and the United States shall oppose such expansion—

''(i) in INTELSAT, including at the Assembly of Parties,

''(ii) in the International Telecommunication Union,

''(iii) through United States instructions to COMSAT,

''(iv) in the Commission, through declining to facilitate the registration of additional orbital locations or the provision of additional services (including additional applications of existing services) or additional areas of business; and

''(v) in other appropriate fora.

''(B) EXCEPTION FOR CERTAIN REPLACEMENT SATELLITES.—The limitations in subparagraph (A) shall not apply to any replacement satellites if—

''(i) such replacement satellite is used solely to provide public-switched network voice telephony or occasional-use television services, or both;

''(ii) such replacement satellite is procured pursuant to a construction contract that was executed on or before March 25, 1998; and

''(iii) construction of such replacement satellite commences on or before the final date for INTELSAT privatization set forth in section 621(1)(A).

''(3) TECHNICAL COORDINATION AMONG SIGNATORIES.—Technical coordination shall not be used to impair competition or competitors, and coordination under Article XIV(d) of the INTELSAT Agreement shall be eliminated.

"SEC. 623. SPECIFIC CRITERIA FOR INTELSAT SEPARATED ENTITIES.

''In securing the privatizations required by section 621, the following additional criteria with respect to any INTELSAT separated entity shall be applied as licensing criteria for purposes of subtitle A:

''(1) DATE FOR PUBLIC OFFERING.—Within one year after any decision to create any separated entity, a public offering of the securities of such entity shall be conducted.

''(2) PRIVILEGES AND IMMUNITIES.—The privileges and immunities of INTELSAT and its signatories shall be waived with respect to any transactions with any separated entity, and any limitations on private causes of action that would otherwise generally be permitted against any separated entity shall be eliminated.

''(3) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of any separated entity shall be individuals who are officers, directors, or employees of INTELSAT.

''(4) SPECTRUM ASSIGNMENTS.—After the initial transfer which may accompany the creation of a separated entity, the portions of the electromagnetic spectrum assigned as of the date of enactment of this title to INTELSAT shall not be transferred between INTELSAT and any separated entity.

''(5) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between a privatized INTELSAT or any successor entity and any separated entity shall be prohibited until 15 years after the completion of INTELSAT privatization under this title.

"SEC. 624. SPECIFIC CRITERIA FOR INMARSAT.

''In securing the privatizations required by section 621, the following additional criteria with respect to Inmarsat privatization shall be applied as licensing criteria for purposes of subtitle A:

''(1) MULTIPLE SIGNATORIES AND DIRECT ACCESS.—Multiple signatories and direct access to Inmarsat shall be permitted.

''(2) PREVENTION OF EXPANSION DURING TRANSITION.—Pending privatization in accordance with the criteria in this title, Inmarsat should not expand by receiving additional orbital locations, placing new satellites in existing locations, or procuring new or additional satellites, except for specified replacement satellites for which construction contracts have been executed as of March 25, 1998, and the United States shall oppose such expansion—

''(A) in Inmarsat, including at the Council and Assembly of Parties,

''(B) in the International Telecommunication Union,

''(C) through United States instructions to COMSAT,

''(D) in the Commission, through declining to facilitate the registration of additional orbital locations or the provision of additional services (including additional applications of existing services) or additional areas of business, and

''(E) in other appropriate fora.

This paragraph shall not be construed as limiting the maintenance, assistance or improvement of the GMDSS.

''(3) NUMBER OF COMPETITORS.—The number of competitors in the markets served by Inmarsat, including the number of competitors created out of Inmarsat, shall be sufficient to create a fully competitive market.

''(4) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between Inmarsat or any successor entity or separated entity and ICO shall be prohibited until 15 years after the completion of Inmarsat privatization under this title.

''(5) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of Inmarsat or any successor entity or separated entity shall be individuals who are officers, directors, or employees of ICO.

''(6) SPECTRUM ASSIGNMENTS.—The portions of the electromagnetic spectrum assigned as of the date of enactment of this title to Inmarsat—

''(A) shall, after January 1, 2006, or the date on which the life of the current generation of Inmarsat satellites ends, whichever is later, be made available for assignment to all systems (including the privatized Inmarsat) on a nondiscriminatory basis and in a manner in which continued availability of the GMDSS is provided; and

''(B) shall not be transferred between Inmarsat and ICO.

''(7) PRESERVATION OF THE GMDSS.—The United States shall seek to preserve space segment capacity of the GMDSS.

"SEC. 625. ENCOURAGING MARKET ACCESS AND PRIVATIZATION.

''(a) NTIA DETERMINATION.—

''(1) DETERMINATION REQUIRED.—Within 180 days after the date of enactment of this section, the Secretary of Commerce shall, through the Assistant Secretary for Communications and Information, transmit to the Commission—

''(A) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that impose barriers to market access for private satellite systems; and

''(B) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that are not supporting pro-competitive privatization of INTELSAT and Inmarsat.

''(2) CONSULTATION.—The Secretary's determinations under paragraph (1) shall be made in consultation with the Federal Communications Commission, the Secretary of State, and the United States Trade Representative, and shall take into account the totality of a country's actions in all relevant fora, including the Assemblies of Parties of INTELSAT and Inmarsat.

''(b) IMPOSITION OF COST-BASED SETTLEMENT RATE.—Notwithstanding—

''(1) any higher settlement rate that an overseas carrier charges any United States carrier to originate or terminate international message telephone services, and

''(2) any transition period that would otherwise apply,

the Commission may by rule prohibit United States carriers from paying an amount in excess of a cost-based settlement rate to overseas carriers in countries listed by the Commission pursuant to subsection (a).

''(c) SETTLEMENTS POLICY.—The Commission shall, in exercising its authority to establish settlements rates for United States international common carriers, seek to advance United States policy in favor of cost-based settlements in all relevant fora on international telecommunications policy, including in meetings with parties and signatories of INTELSAT and Inmarsat.

"Subtitle C—Deregulation and Other Statutory Changes

"SEC. 641. DIRECT ACCESS; TREATMENT OF COMSAT AS NONDOMINANT CARRIER.

''The Commission shall take such actions as may be necessary—

''(1) to permit providers or users of telecommunications services to obtain direct access to INTELSAT telecommunications services—

''(A) through purchases of space segment capacity from INTELSAT as of January 1, 2000, if the Commission determines that—

''(i) INTELSAT has adopted a usage charge mechanism that ensures fair compensation to INTELSAT signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime, such as insurance, administrative, and other operations and maintenance expenditures;

''(ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate thereof, shall be permitted to order space segment directly from INTELSAT in order to provide any service subject to the Commission's jurisdiction;

''(iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority;

''(B) through investment in INTELSAT as of January 1, 2002, if the Commission determines that such investment will be attained under procedures that assure fair compensation to INTELSAT signatories for the market value of their investments;

''(2) to permit providers or users of telecommunications services to obtain direct access to Inmarsat telecommunications services—

''(A) through purchases of space segment capacity from Inmarsat as of January 1, 2000, if the Commission determines that—

''(i) Inmarsat has adopted a usage charge mechanism that ensures fair compensation to Inmarsat signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime, such as insurance, administrative, and other operations and maintenance expenditures;

''(ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate thereof, shall be permitted to order space segment directly from Inmarsat in order to provide any service subject to the Commission's jurisdiction;

''(iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority; and

''(B) through investment in Inmarsat as of January 1, 2001, if the Commission determines that such investment will be attained under procedures that assure fair compensation to Inmarsat signatories for the market value of their investments;

''(3) to act on COMSAT's petition to be treated as a nondominant carrier for the purposes of the Commission's regulations according to the

provisions of section 10 of the Communications Act of 1934 (47 U.S.C. 160); and

''(4) to eliminate any regulation on the availability of direct access to INTELSAT or Inmarsat or to any successor entities after a pro-competitive privatization is achieved consistent with sections 621, 622 and 624.

''SEC. 642. TERMINATION OF MONOPOLY STATUS.

''(a) RENEGOTIATION OF MONOPOLY CONTRACTS PERMITTED.—The Commission shall, beginning January 1, 2000, permit users or providers of telecommunications services that previously entered into contracts or are under a tariff commitment with COMSAT to have an opportunity, at their discretion, for a reasonable period of time, to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination charges in any such contracts with COMSAT.

''(b) COMMISSION AUTHORITY TO ORDER RENEGOTIATION.—Nothing in this title shall be construed to limit the authority of the Commission to permit users or providers of telecommunications services that previously entered into contracts or are under a tariff commitment with COMSAT to have an opportunity, at their discretion, to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination charges in any such contracts with COMSAT.

''(c) PROVISIONS CONTRARY TO PUBLIC POLICY VOID.—Whenever the Commission permits users or providers of telecommunications services to renegotiate contracts or commitments as described in this section, the Commission may provide that any provision of any contract with COMSAT that restricts the ability of such users or providers to modify the existing contracts or enter into new contracts with any other space segment provider (including but not limited to any term or volume commitments or early termination charges) or places such users or providers at a disadvantage in comparison to other users or providers that entered into contracts with COMSAT or other space segment providers shall be null, void, and unenforceable.

''SEC. 643. SIGNATORY ROLE.

''(a) LIMITATIONS ON SIGNATORIES.—

''(1) NATIONAL SECURITY LIMITATIONS.—The Federal Communications Commission, after a public interest determination, in consultation with the Executive Branch, may restrict foreign ownership of a United States signatory if the Commission determines that not to do so would constitute a threat to national security.

''(2) NO SIGNATORIES REQUIRED.—The United States Government shall not require signatories to represent the United States in INTELSAT or Inmarsat or in any successor entities after a pro-competitive privatization is achieved consistent with sections 621, 622 and 624.

''(b) CLARIFICATION OF PRIVILEGES AND IMMUNITIES OF COMSAT.—

''(1) GENERALLY NOT IMMUNIZED.—Notwithstanding any other law or executive agreement, COMSAT shall not be entitled to any privileges or immunities under the laws of the United States or any State on the basis of its status as a signatory of INTELSAT or Inmarsat.

''(2) LIMITED IMMUNITY.—COMSAT and any other company functioning as United States signatory to INTELSAT or Inmarsat shall not be liable for action taken by it in carrying out the specific, written instruction of the United States issued in connection with its relationships and activities with foreign governments, international entities, and the intergovernmental satellite organizations.

''(3) PROVISIONS PROSPECTIVE.—Paragraph (1) shall not apply with respect to liability for any action taken by COMSAT before the date of enactment of the Communications Satellite Competition and Privatization Act of 1998.

''(c) PARITY OF TREATMENT.—Notwithstanding any other law or executive agreement, the Commission shall have the authority to impose similar regulatory fees on the United States signatory which it imposes on other entities providing similar services.

''SEC. 644. ELIMINATION OF PROCUREMENT PREFERENCES.

''Nothing in this title or the Communications Act of 1934 shall be construed to authorize or require any preference, in Federal Government procurement of telecommunications services, for the satellite space segment provided by INTELSAT, Inmarsat, or any successor entity or separated entity.

''SEC. 645. USE OF ITU TECHNICAL COORDINATION.

''The Commission and United States satellite companies shall utilize the International Telecommunication Union procedures for technical coordination with INTELSAT and its successor entities and separated entities, rather than INTELSAT procedures.

''SEC. 646. TERMINATION OF COMMUNICATIONS SATELLITE ACT OF 1962 PROVISIONS.

''Effective on the dates specified, the following provisions of this Act shall cease to be effective:

''(1) Date of enactment of this title: Sections 101 and 102; paragraphs (1), (5) and (6) of section 201(a); section 301; section 303; section 502; and paragraphs (2) and (4) of section 504(a).

''(2) On the effective date of the Commission's order that establishes direct access to INTELSAT space segment: Paragraphs (1), (3) through (5), and (8) through (10) of section 201(c); and section 304.

''(3) On the effective date of the Commission's order that establishes direct access to Inmarsat space segment: Subsections (a) through (d) of section 503.

''(4) On the effective date of a Commission order determining under section 601(b)(2) that Inmarsat privatization is consistent with criteria in sections 621 and 624: Section 504(b).

''(5) On the effective date of a Commission order determining under section 601(b)(2) that INTELSAT privatization is consistent with criteria in sections 621 and 622: Paragraphs (2) and (4) of section 201(a); section 201(c)(2); subsection (a) of section 403; and section 404.

''SEC. 647. REPORTS TO THE CONGRESS.

''(a) ANNUAL REPORTS.—The President and the Commission shall report to the Congress within 90 calendar days of the enactment of this title, and not less than annually thereafter, on the progress made to achieve the objectives and carry out the purposes and provisions of this title. Such reports shall be made available immediately to the public.

''(b) CONTENTS OF REPORTS.—The reports submitted pursuant to subsection (a) shall include the following:

''(1) Progress with respect to each objective since the most recent preceding report.

''(2) Views of the Parties with respect to privatization.

''(3) Views of industry and consumers on privatization.

''SEC. 648. CONSULTATION WITH CONGRESS.

''The President's designees and the Commission shall consult with the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate prior to each meeting of the INTELSAT or Inmarsat Assembly of Parties, the INTELSAT Board of Governors, the Inmarsat Council, or appropriate working group meetings.

''SEC. 649. SATELLITE AUCTIONS.

''Notwithstanding any other provision of law, the Commission shall not have the authority to assign by competitive bidding orbital locations or spectrum used for the provision of international or global satellite communications services. The President shall oppose in the International Telecommunication Union and in other bilateral and multilateral fora any assignment by competitive bidding of orbital locations or spectrum used for the provision of such services.

''Subtitle D—Negotiations To Pursue Privatization

''SEC. 661. METHODS TO PURSUE PRIVATIZATION.

''The President shall secure the pro-competitive privatizations required by this title in a manner that meets the criteria in subtitle B.

''Subtitle E—Definitions

''SEC. 681. DEFINITIONS.

''(a) IN GENERAL.—As used in this title:

''(1) INTELSAT.—The term 'INTELSAT' means the International Telecommunications Satellite Organization established pursuant to the Agreement Relating to the International Telecommunications Satellite Organization (INTELSAT).

''(2) INMARSAT.—The term 'Inmarsat' means the International Mobile Satellite Organization established pursuant to the Convention on the International Maritime Organization.

''(3) SIGNATORIES.—The term 'signatories'—

''(A) in the case of INTELSAT, or INTELSAT successors or separated entities, means a Party, or the telecommunications entity designated by a Party, that has signed the Operating Agreement and for which such Agreement has entered into force or to which such Agreement has been provisionally applied; and

''(B) in the case of Inmarsat, or Inmarsat successors or separated entities, means either a Party to, or an entity that has been designated by a Party to sign, the Operating Agreement.

''(4) PARTY.—The term 'Party'—

''(A) in the case of INTELSAT, means a nation for which the INTELSAT agreement has entered into force or been provisionally applied; and

''(B) in the case of Inmarsat, means a nation for which the Inmarsat convention has entered into force.

''(5) COMMISSION.—The term 'Commission' means the Federal Communications Commission.

''(6) INTERNATIONAL TELECOMMUNICATION UNION.—The term 'International Telecommunication Union' means the intergovernmental organization that is a specialized agency of the United Nations in which member countries cooperate for the development of telecommunications, including adoption of international regulations governing terrestrial and space uses of the frequency spectrum as well as use of the geostationary satellite orbit.

''(7) SUCCESSOR ENTITY.—The term 'successor entity'—

''(A) means any privatized entity created from the privatization of INTELSAT or Inmarsat or from the assets of INTELSAT or Inmarsat; but

''(B) does not include any entity that is a separated entity.

''(8) SEPARATED ENTITY.—The term 'separated entity' means a privatized entity to whom a portion of the assets owned by INTELSAT or Inmarsat are transferred prior to full privatization of INTELSAT or Inmarsat, including in particular the entity whose structure was under discussion by INTELSAT as of March 25, 1998, but excluding ICO.

''(9) ORBITAL LOCATION.—The term 'orbital location' means the location for placement of a satellite on the geostationary orbital arc as defined in the International Telecommunication Union Radio Regulations.

''(10) SPACE SEGMENT.—The term 'space segment' means the satellites, and the tracking, telemetry, command, control, monitoring and related facilities and equipment used to support the operation of satellites owned or leased by INTELSAT, Inmarsat, or a separated entity or successor entity.

''(11) NON-CORE.—The term 'non-core services' means, with respect to INTELSAT provision, services other than public-switched network voice telephony and occasional-use television, and with respect to Inmarsat provision, services other than global maritime distress and safety services or other existing maritime or aeronautical services for which there are not alternative providers.

''(12) ADDITIONAL SERVICES.—The term 'additional services' means Internet services, high-speed data, interactive services, non-maritime or non-aeronautical mobile services, Direct to Home (DTH) or Direct Broadcast Satellite (DBS) video services, or Ka-band services.

''(13) INTELSAT AGREEMENT.—The term 'INTELSAT Agreement' means the Agreement Relating to the International Telecommunications Satellite Organization ('INTELSAT'), including all its annexes (TIAS 7532, 23 UST 3813).

''(14) HEADQUARTERS AGREEMENT.—The term 'Headquarters Agreement' means the International Telecommunication Satellite Organization Headquarters Agreement (November 24, 1976) (TIAS 8542, 28 UST 2248).

''(15) OPERATING AGREEMENT.—The term 'Operating Agreement' means—

''(A) in the case of INTELSAT, the agreement, including its annex but excluding all titles of articles, opened for signature at Washington on August 20, 1971, by Governments or telecommunications entities designated by Governments in accordance with the provisions of the Agreement, and

''(B) in the case of Inmarsat, the Operating Agreement on the International Maritime Satellite Organization, including its annexes.

''(16) INMARSAT CONVENTION.—The term 'Inmarsat Convention' means the Convention on the International Maritime Satellite Organization (Inmarsat) (TIAS 9605, 31 UST 1).

''(17) NATIONAL CORPORATION.—The term 'national corporation' means a corporation the ownership of which is held through publicly traded securities, and that is incorporated under, and subject to, the laws of a national, state, or territorial government.

''(18) COMSAT.—The term 'COMSAT' means the corporation established pursuant to title III of the Communications Satellite Act of 1962 (47 U.S.C. 731 et seq.)

''(19) ICO.—The term 'ICO' means the company known, as of the date of enactment of this title, as ICO Global Communications, Inc.

''(20) REPLACEMENT SATELLITES.—The term 'replacement satellite' means a satellite that replaces a satellite that fails prior to the end of the duration of contracts for services provided over such satellite and that takes the place of a satellite designated for the provision of public-switched network and occasional-use television services under contracts executed prior to March 25, 1998 (but not including K–TV or similar satellites). A satellite is only considered a replacement satellite to the extent such contracts are equal to or less than the design life of the satellite.

''(21) GMDSS.—The term 'global maritime distress and safety services' or 'GMDSS' means the automated ship-to-shore distress alerting system which uses satellite and advanced terrestrial systems for international distress communications and promoting maritime safety in general. The GMDSS permits the worldwide alerting of vessels, coordinated search and rescue operations, and dissemination of maritime safety information.

''(b) COMMON TERMINOLOGY.—Except as otherwise provided in subsection (a), terms used in this title that are defined in section 3 of the Communications Act of 1934 have the meanings provided in such section.''.

The CHAIRMAN. No amendment to the committee amendment is in order unless printed in the CONGRESSIONAL RECORD. Those amendments shall be considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a demand for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for the voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose, of course, would be to engage the chairman of the full committee, my good friend from Richmond, Virginia, in a colloquy.

I would like to personally thank the gentleman from Virginia (Mr. BLILEY) for his work in moving this very important bill forward and his leadership on this issue over the past number of years.

We can all agree that government should not be providing commercial services, especially in advanced telecommunications. We can likewise agree that the intergovernmental satellite organizations should be privatized in a manner that creates a level field for all competitors.

Now, given that all these organizations are intergovernmental organizations, the United States must inevitably engage with our global partners as we move forward to privatization. We operate in a global interconnected world today, with a complex web of economic undertakings binding us to countries around the world. We all know that.

For instance, the United States and approximately 100 other countries that participate in INTELSAT and Inmarsat are members of the World Trade Organization, the WTO. We, therefore, have obligations to these countries, as they do to us, pursuant to agreements in the WTO. With respect to satellite services, we have an obligation to our WTO partners under the Fourth Protocol of the General Agreement on Trade and Services, which governs basic telecommunications services.

Now, I would like to ask the chairman, is the bill intended to be consistent with U.S. obligations under WTO on the provisions of the basic telecommunications services?

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. DAN SCHAEFER of Colorado. I yield to the gentleman from Virginia.

Mr. BLILEY. The gentleman is correct. My bill is intended to be consistent with the WTO.

As the gentleman may know, I was a strong supporter of the WTO basic telecommunications agreement, which will open the world's markets to other telecommunications companies. For the price of improved access to the global market for our telecom companies, the U.S. Government has to permit foreign investment in this market. Given the competitiveness of our telecom companies, that is a good bargain.

I support playing by the rules and I believe this bill is consistent with our obligations. But nothing in the WTO agreement says we cannot protect competition in our market. We are permitted to do so under the WTO services agreement. If necessary, we will vigorously fight for our beliefs and rights within the WTO and protect the integrity of U.S. competition policy.

So my bill uses an entry test of not causing competitive harm. As long as the IGO's privatized entities meet the criteria and will not cause competitive harm, and their entry is otherwise in the public interest, the FCC may authorize their use. A competition entry test in the public interest is consistent with our WTO obligations.

Mr. DAN SCHAEFER of Colorado. Reclaiming my time, Mr. Chairman, I appreciate the gentleman's remarks. As the gentleman knows, I am very interested in seeing that the commission, when making its determination whether to license or authorize the use of privatized entities, act in a manner consistent with U.S. obligations under the WTO agreement on basic telecommunications.

Now, I would ask the gentleman one final question. Is this legislation intended to ensure that the FCC not only take notice but, as much as practicable, act in a manner consistent with the WTO agreement on basic telecommunication services?

Mr. BLILEY. If the gentleman will continue to yield, we intend by this legislation that the FCC will implement this satellite reform legislation in a manner consistent with our obligations under the WTO basic telecommunications agreement.

However, the bill does not mandate that, because foreign parties may differ with the FCC's reading of the public interest or whether the future structure of an IGO spin-off or successor entity will harm competition in this market. If it did mandate that the FCC act consistently with our WTO obligations, then that privatized entity or, more precisely its government, could go off to Geneva and petition the WTO for a panel against the United States due to the FCC finding.

While I support the principles of the WTO and believe the U.S. should live up to its obligations, I do not wish to invite WTO panels. I do not want our bill to become an avenue for a recovering monopolist, to use a phrase of my cosponsor, to slow down reform by causing trouble for the United States in Geneva. Rather, the bill relies on a perfectly acceptable ''measure,'' to use WTO parlance, a competition test, as the entry standard that should guide the FCC in making decisions on the section 601.

Mr. Chairman, I thank the gentleman for addressing this important issue.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I thank the chairman of the full committee.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

I simply want to commend the gentleman from Colorado for what it is he has done. This treaty violates the INTELSAT agreement and the basic telecom agreement of the World Trade Organization.

It also would have the practical effect of insisting on specific results and would impose sanctions on INTELSAT in violation of that treaty if those results are not achieved. The sanctions would violate that treaty further by expelling INTELSAT from the U.S. market in violation of that treaty agreement.

In addition to that, it would violate the Inmarsat agreement by preventing COMSAT and Inmarsat from providing certain specifically required, economically viable service to U.S. consumers. It also punishes COMSAT in the event foreign participants do not meet the privatization criteria and time schedule, something which is, again, in violation of that treaty.

Now, in addition to that, COMSAT would be barred from providing many services to American and foreign participants under the treaties requiring those actions, to which this Nation is a signatory. It also imposes requirements for spin-offs which do not, I believe, comply with the requirements of the treaty.

It also violates the WTO basic telecom agreements' open market requirements because, in point of fact, it tends to close rather than to open markets and reduce rather than increase competition. It would, in fact, imperil the entire future of the WTO agreement entered into with 68 other countries.

The comments of the gentleman from Colorado were appropriate and should be considered as my colleagues prepare to vote against this outrageous bill.

AMENDMENT NO. 6 OFFERED BY MRS. MORELLA

Mrs. MORELLA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mrs. Morella:

Page 6, after line 8, insert the following new subsection:

''(e) TAKINGS PROHIBITED.—In implementing the provisions of this section, and sections 621, 622, and 624 of this Act, the Commission shall not restrict the activities of COMSAT in a manner which would create the liability for the United States under the Fifth Amendment to the Constitution.

Page 11, after line 11, insert the following new subsection:

''(d) TAKINGS PROHIBITED.—In implementing the provisions of this section, the Commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

Mrs. MORELLA. Mr. Chairman, I had submitted two amendments for H.R. 1872, and so I want to clarify for my colleagues that I am only offering one of those amendments, the one that deals only with the question of takings under the fifth amendment.

My amendment addresses a fundamental problem with H.R. 1872. As reported by the Committee on Commerce, the bill contains service restrictions which, when implemented, will constitute an unconstitutional taking of COMSAT's property, and so my amendment just very simply cures that problem.

I know that the gentleman from Virginia, my good friend and chairman of the committee, contends these restrictions do not constitute a taking, but I must respectfully disagree. Quite frankly, if it does not constitute a taking, then this amendment is completely in order. Why not put it into the bill?

Mr. Chairman, the United States induced private investors to fund COMSAT by offering the company an opportunity to earn a profit by helping to serve the communications needs of the United States and other countries. That is a quote.

The United States also instructed COMSAT to sign the INTELSAT and Inmarsat operating agreements, which are binding on the parties. COMSAT's investments were made in reliance on existing law.

The United States cannot take COMSAT's property by deliberately destroying its value without paying compensation. This is particularly true where, as here, the investments were compelled by Federal law. And in accordance with that law and with government approval, COMSAT has acquired an investment interest in satellites, orbital positions and spectrum, as well as other costs associated with the establishment, operation, and maintenance of a global satellite system.

□ 1215

And yet this Federal law statute would prohibit COMSAT from using or earning a return on those investments. Putting a company in such a position would be a compensable taking, and the liability for this taking is massive.

COMSAT has invested billions of dollars in its space-based assets and millions more on the ground. Unless my amendment is adopted, the U.S. Treasury and, ultimately, the taxpayers will have to foot the bill.

These are not opinions that I cooked up myself. They are shared by many, including some of our colleagues on the Committee on Commerce. They are also shared by Nancie Marzulla. She is the president of Defenders of Property Rights. In a recent column in the Washington Times, Ms. Marzulla addressed the takings aspect of H.R. 1872. She said, ''Some in Congress and elsewhere seem to have forgotten the Constitution's fifth amendment prohibition against uncompensated takings.'' She notes correctly that ''The Government would have to compensate COMSAT for taking the company's property in violation of the fifth amendment's guarantee against uncompensated takings. The U.S. is liable for just compensation not just when it physically seizes real or personal property, but also, as Justice Holmes said in 1922, 'If regulation goes too far, it will be recognized as a taking.' ''

I also want to point out the Washington Legal Foundation that the chairman of the committee admires so, and many of us do, agrees that these provisions are an unconstitutional taking of COMSAT's property. In an analysis prepared at my request, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT.

Mr. Chairman, I include the following for the RECORD:

WASHINGTON LEGAL FOUNDATION,
2009 MASSACHUSETTS AVENUE, N.W.,
Washington, DC, April 29, 1998.

Hon. CONSTANCE A. MORELLA,
U.S. House of Representatives, 2228 Rayburn House Office Bldg., Washington, DC.

Re H.R. 1872—The Communications Satellite Competition and Privatization Act of 1998

DEAR REPRESENTATIVE MORELLA: In response to your written request for counsel, the Washington Legal Foundation (WLF) has undertaken a legal analysis of H.R. 1872, ''The Communications Satellite Competition and Privatization Act of 1998.'' In particular, we have considered whether H.R. 1872 in its present form would constitute a ''taking'' by the federal government (subject to just compensation under the Fifth Amendment to the United States Constitution) or a breach of compact between the United States and COMSAT Corporation.

After careful consideration of H.R. 1872, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT. WLF's conclusion should not be construed as endorsement or opposition to H.R. 1872. WLF is a nonprofit group organized under 26 U.S.C. §501(c)(3) and does not engage in any lobbying activity.

Background. The current wave of telecommunications reform comes from a shift in how the economics of communications networks are generally understood. Whereas it was once assumed that these networks were natural monopolies, experts in the field now believe that these facilities can be provided (and are best provided) by multiple competitors. Nowhere is this shift more clear than in satellite communications. In the 1960s and 1970s, it was universally believed that the establishing and maintaining a network of satellites was so complicated and expensive that only a global consortium could do it. Thus, the United States spearheaded the formation of two treaty-based international satellite organizations (ISOs), INTELSAT and Inmarsat, to carry out this mission.

Since that time, private companies such as PanAmSat, Loral, Motorola, and Teledesic have launched (or made plans to launch) their own satellite networks. The success of these companies has demonstrated that government involvement is no longer needed to ensure the provision of satellite services. Accordingly, the United States has begun the delicate process of negotiating with other countries—most of whom do not fully share the U.S.'s faith in the marketplace—to privatize the ISOs. These efforts have already borne fruit; INTELSAT has agreed to spin off

six of its satellites to a private company, and Inmarsat has agreed to privatize all but its public-safety services.

Several members of Congress, believing that privatization cannot be achieved unless mandated by the U.S., have introduced legislation intended to force the ISOs to privatize. H.R. 1872 would close the U.S. market to INTELSAT and Inmarsat, their privatized spin-offs and successors, and all U.S. entities that use their facilities, unless the ISOs meet the bill's rigid criteria, and do so by dates certain. H.R. 1872 has been criticized by some for hamstringing the government's ability to negotiate with other countries, and for adopting—allegedly for the purpose of enhancing competition—a protectionist strategy that benefits certain U.S. satellite companies by excluding their most likely international rivals from the market. What has received less attention is that H.R. 1872 would effect the largest confiscation of private property in recent times, exposing the U.S. to billions of dollars in claims for compensation.

The problem is this: The United States actually does not hold any investment in the ISOs. Private investors have committed massive amounts of capital to fund the ISOs, and they have done so at the behest of the U.S. government, in furtherance of declared national policy. When Congress passed the Communications Satellite Act of 1962, 47 U.S.C. §§701 *et seq.*, it determined that ''United States participation in the global system shall be in the form of a private corporation, subject to appropriate regulation.'' 47 U.S.C. §701(c). Congress therefore authorized the creation of a new company, COMSAT, to be the sole operating entity in INTELSAT. In 1978, Congress also made COMSAT the sole U.S. participant in Inmarsat.

By statute, COMSAT is a ''corporation for profit'' and not ''an agency or establishment of the United States government.'' 47 U.S.C. §731. It has never been funded or otherwise subsidized by the United States. Rather, Congress authorized and expected COMSAT to raise capital by selling shares of voting capital stock ''in a manner to encourage the widest possible distribution to the American public,'' 47 U.S.C. §634(a), and by selling its securities to private investors. See 47 U.S.C. §§721(c)(8), 734(c). COMSAT's stock trades on the New York Stock Exchange, and its current market capitalization is over $2 billion.

The INTELSAT and Inmarsat Operating Agreements (which COMSAT was directed by the U.S. government to sign) obligate COMSAT to meet periodic capital calls. At the end of 1997, COMSAT owned roughly 18% of INTELSAT, with a carrying value of approximately $402 million, and roughly 23% of Inmarsat, with a carrying value of approximately $223 million. COMSAT is pledged to invest another $332 million in INTELSAT. In addition, it has invested hundreds of millions in shareholder capital outside the ISOs in order to provide INTELSAT and Inmarsat services to the U.S. public.

H.R. 1872 could substantially impair, or perhaps destroy, that investment. The bill sets conditions for privatization that the State Department concedes are too onerous for other countries to accept. The entity that INTELSAT recently agreed to privatize would not qualify, nor would the privatized Inmarsat. Some have argued that the bar has intentionally been set too high, at the request of U.S. companies seeking protection for competition, so that the market-closing sanctions that accompany a failure to meet the criteria will be triggered.

During the transition to privatization, H.R. 1872 would effectively bar the ISOs from deploying satellites to new orbital locations or replacing obsolete satellites at the end of their lives. Moreover, H.R. 1872 declares that if ''substantial and material progress'' is not made, year by year, toward meeting the bill's conditions, COMSAT will be barred from providing high-speed data, Internet, and land mobile service—even though it relies on such services now for significant portions of its revenue. In addition, COMSAT would be frozen in time while the rest of the marketplace moved forward; it could not provide additional services, or additional applications of existing services.

If privatization is not achieved in exactly the time and manner specified, the bill would limit COMSAT to the provision of so-called ''core'' services, defined as force telphony and occasional use services for INTELSAT, and emergency services (now provided at no charge) for Inmarsat. But the refuge of these ''core'' services may well be illusory, because changes in technology are causing these markets to disappear. Voice traffic, for example, is migrating rapidly from satellites to fiber-optic cables, and a voice-only provider likely would see its market slip away in a world of converging voice and data services.

Moreover, H.R. 1872 imposes further sanctions that could cripple COMSAT *whether or not the ISOs privatize.* Most significantly, the bill would give *every one* of COMSAT's customers the unilateral right to abrogate its contracts with the company. Such sweeping Congressional abrogation of the private contract rights of a single company—without any judicial determination of wrongdoing—may be unprecedented in U.S. history .

Constitutional Analysis. WLF has concluded that, if adopted, H.R. 1872 would effect a substantial compensable taking of private property. The bill would impair COMSAT's substantial investments in and for INTELSAT and Inmarsat, thus imposing on COMSAT's shareholders virtually the entire cost of a congressional policy change. The Takings Clause of the Fifth Amendment is ''designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.'' Armstrong v. United States, 364 U.S. 40, 49 (1960). Congress may not induce a company to invest its private capital, and then turn around and declare that policy changes have made the investment unnecessary, without compensating that company for the assets dedicated to public use.

WLF has concluded that if H.R. 1872 passes, COMSAT may have legitimate claims for compensation for its taken investments. Government's regulation of the uses to which private property may be put can ''take'' that property, just as if the government had seized the property. See Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 1017–18 (1992); Webb's Fabulous Pharmacies, Inc. v. Beckwith, 449 U.S. 155, 163–64 (1980). The Supreme Court has articulated three factors that determine whether usage regulation goes so far as to constitute a taking: ''the economic impact of the regulation on the claimant,'' the ''extent to which the regulation has interfered with distance investment-backed expectations,'' and ''the character of the governmental action.'' Penn Central Transp. Co. v. City of New York, 438 U.S. 104, 124 (1978).

H.R. 1872 bears all the indicia of a regulation that, in Justice Holmes's words, goes ''too far.'' Pennsylvania Coal v. Mahon, 260 U.S. 393, 415 (1922). Based on WLF's understanding of the situation, the bill would have a devastating economic impact on COMSAT, immediately stranding hundreds of millions of dollars of investments made to provide (and useful solely for providing) banned services, and ultimately relegating the company to providing an ever-shrinking core of services with ever-more-obsolete technologies. Moreover, H.R. 1872 appears to interfere with COMSAT's investment-backed expectations. If COMSAT had not legitimately expected that it would be allowed to pursue a profit on its INTELSAT and Inmarsat investments, it would have been irrational for COMSAT to have made them, and for its shareholders to have contributed capital to the company.

Nor does H.R. 1872 merely ''adjust the benefits and burdens of economic life to promote the common good,'' with only an incidental effect on COMSAT. Connolly v. Pension Benefit Guaranty Corp., 475 U.S. 211, 225 (1986). It is true that COMSAT's actions have always been subject to regulation, cf. id. at 226–227. But H.R. 1872 goes well beyond the ordinary regulatory adjustment that such an actor must expect. It rejects the most basic premise of COMSAT's existence: that a global ''commercial communications satellite system,'' built ''in conjunction and cooperation with other countries,'' will best ''serve the communications needs of the United States and other countries.'' 47 U.S.C. §701(a). In light of this language, the backers of H.R. 1872 cannot reasonably maintain that COMSAT should have expected that the U.S. would seek to exclude INTELSAT and Inmarsat from the market altogether. See Ruckleshaus v. Monsanto Co., 467 U.S. 986, 1010–11 (1984) (where company submits trade secrets to EPA upon statutory assurance that EPA will not disclose them, later amendment of statute to permit disclosure works a taking); United Nuclear Corp. v. United States, 912 F.2d 1432 (Fed. Cir. 1990) (where mining company invested $5 million to explore for uranium on tribal lands in reliance on Interior Department approval, company could not be expected to foresee Interior's decision six years later to allow tribe to cancel the land claims, and decision worked a compensable taking).

Finally, H.R. 1872 does not ''substantially advance'' its stated regulatory goal: securing the privatization of INTELSAT and Inmarsat. See Lucas, 505 U.S. at 1016. To the contrary, by setting the bar as high as it does, the bill guarantees that privatization will fail and that COMSAT will be expelled from the U.S. market. Congress may legitimately decide that it no longer wants COMSAT to serve its historic role. But if it does so, it is required by the Fifth Amendment to compensate COMSAT's shareholders for the capital they have put in public service at the government's request.

Please let us know if you seek further legal counsel from WLF on this issue.

Sincerely,

DANIEL J. POPEO,
General Counsel.

[From the Washington Times, Apr. 27, 1998]

DEREGULATION OR PLAIN OLD THEFT?

(By Nancie G. Marzulla)

More than 30 years ago, hundreds of Americans invested in an idea: that communications satellites could benefit their nation and the world. The result was COMSAT, a Maryland-based shareholder-owned company that successfully launched the United States to the apex of the satellite industry.

Today, however, if a bill now being considered in Congress passes, these investments will be in jeopardy. Some in Congress and elsewhere seem to have forgotten the Constitution's Fifth Amendment prohibition against uncompensated ''takings.'' In their quest for deregulation, they've proposed federal legislation that could end up costing the U.S. Treasury hundreds of millions, if not billions, of dollars to cover COMSAT's takings claims.

In the process, these ''takers'' would be sending a clear message to current and future investors: Risk your money, but don't

expect the government to play by the rules if your investment pays off. With that kind of federal attitude, what sane investor would risk their hard-earned capital on today's fledgling companies that take huge financial and technological risks at the request of the government, as COMSAT did in the 1960s.

In the Communications Satellite Act of 1962, Congress commissioned COMSAT to ''establish in conjunction and in cooperation with other countries, as expeditiously and practicable, a commercial communications satellite system.'' At the time, this task was recognized to be a risky financial and technological undertaking. Congress's mandate led to the creation of the International Telecommunications Satellite Organization (INTELSAT), an international consortium that now includes some 140-member countries. A similar international organization, the International Mobile Satellite Organization, or ''Inmarsat'' was formed in 1978.

As the U.S. representative to INTELSAT and Inmarsat, COMSAT has been bound by those organizations' operating agreements which (among other things) obligate COMSAT to meet all of INTELSAT and Inmarsat's capital investment calls. Moreover, COMSAT must seek FCC approval for every investment.

In exchange for living within these constraints, COMSAT was afforded an opportunity to earn a reasonable return on its investments. It also was given exclusive franchise in selling services using INTELSAT AND Inmarsat satellites for communications to and from the United States. Access has never been a problem for customers: these services are energetically offered to all at non-discriminatory rates.

During the 1960s and 1970s, INTELSAT and Inmarsat satellites were the only ''birds'' in the sky American telephone companies and television networks needing satellite services had to purchase them from COMSAT. But since the early 1980s other companies have been allowed to launch competing communications satellite systems. These systems have been extremely successful.

In addition to the growth of new, rival service providers, new technologies also have created more competition for satellites. For example, higher capacity fiber-optic undersea cable has become the favored mode of transmitting phone calls internationally. Today, 117 countries are directly connected to the United States by fiber-optic cable.

As a result of these technological and marketplace development, COMSAT now has only 21 percent of the market for international voice communications and about 42 percent of the market for international video transmission.

There are still those who inexplicably view COMSAT, a relatively small player in the communications marketplace, as a monopoly despite the fact that numerous suppliers serve the market today. Believers in the ''monopoly power'' of COMSAT have introduced a bill in Congress that would, among other things:

Authorize customers to abrogate their existing contracts with COMSAT;

Require the immediate surrender of allocated orbital slots (essentially a parking place for a satellite in outer space) not in actual commercial use, despite the millions of dollars COMSAT, INTELSAT, and Inmarsat have invested in satellites intended for those slots;

Terminate existing services that COMSAT is providing to customers, as well as restricting the company's participation in new services (such as Internet access, high-speed data and interactive services) thus depriving Americans of advanced computer and video technologies.

Maybe some in Congress believe that this is the definition of progressive, fair and pro-competition legislation, but COMSAT and its shareholders aren't laughing about a bill that would knock this competitor out of the market in the name of competition.

This bill would breach COMSAT's implicit but enforceable regulatory compact with the federal government. As the Supreme Court recently said when enforcing promises made by bank regulators to savings and loans institutions, Congress is free to change its policies and, as a result, to break a pledge to a private party. But if Congress does so, it must ''insure the promise against loss arising from the promised condition's nonoccurrence.''

The government also would have to compensate COMSAT for taking the company's property in violation of the Fifth Amendment's guarantee against uncompensated takings. The U.S. is liable for just compensation not just when it physically seizes real or personal property but also, as Justice Holmes said in 1922, ''if regulation goes too far it will be recognized as taking.''

Clearly, it is going ''too far'' to require COMSAT and its investors to bear the burden of a congressional decision to reverse course and exclude treaty organizations and their signatories from almost the entire field of satellite communications. If Congress were to order this, it would have to compensate companies for investments they made at the government's behest and approval—investments made specifically to solidify the U.S. as the satellite industry leader.

The provision that would invalidate existing contracts is even a more obvious and aggressive taking of private property. It is well recognized that contract rights are property rights, protected by the Constitution. Congress can no more abrogate existing contracts than it can take away tangible personal property without just compensation. Yet this bill would void current and future agreements negotiated between COMSAT and other parties.

Of course, deregulation must be pursued with vigor. At the same time, promises governments made to private companies, and on which investors based their investment, must be kept. Deregulation cannot be an excuse for the uncompensated confiscation of private property.

Mr. Chairman, the service restrictions of H.R. 1872 are not only unconstitutional, they are anticompetitive and they are anticonsumer. They will remove a competitor from the marketplace, and therefore, they will then deny consumers, including the U.S. Government, an alternative service provider. COMSAT's competitors will have succeeded in ejecting a major player from the communications marketplace. They are the only beneficiaries of these provisions.

So, Mr. Chairman, we also put satellite reform, but we must proceed in a way that is fair to the customers, fair to COMSAT, and above all else consistent with the Constitution. We must avoid enacting a law that is found to be unconstitutional and that exposes the Treasury to a multibillion-dollar liability for damages.

Mr. Chairman, I ask my colleagues to support this amendment.

Mr. BLILEY. Mr. Chairman, I rise in opposition to the amendment of my good friend, the gentlewoman from Maryland (Mrs. MORELLA).

Before I begin, let me share with my colleagues an interesting bit of history. The phrase ''red herring'' comes from the practice of dragging a smoked and, thus, red herring across the path of a track of dogs trying to follow a scent. The idea was to use the scent to distract them from that prey.

In this case, the taking issue is being used in an attempt to distract Members from the real issue, which is that without incentives that could cost the intergovernmental satellite organizations money, they will never privatize in a procompetitive manner.

The amendment is an attempt to tie down the FCC through litigation. Currently, if COMSAT has a takings claim, it can sue the FCC. Just like anyone else, if there were a taking, they could go to court. Why do they want this amendment? To tie the bill in knots through litigation, that is why.

The amendment offered in committee by the gentleman from Maryland (Mr. WYNN), the colleague of the gentlewoman, was offered which also sought to cause fundamental problems for the bill. The gentleman from Maryland (Mr. WYNN) failed by a vote of 37-to-8. This one dresses the knife up in takings clothing possibly in the hope that many of my conservative colleagues who care about takings will join the gentlewoman in attacking our carefully crafted legislation.

I have to tell my colleagues that I do not think the amendment of the gentlewoman from Maryland (Mrs. MORELLA) is designed to fix the takings problem. It is designed to protect her constituent COMSAT. And it does that well. It says that the FCC shall not restrict the activities of COMSAT in a manner which would create liability for the U.S. under the fifth amendment, which would mean COMSAT could go to the courts as soon as the FCC issued a decision and tie the bill up for years. COMSAT's whole strategy is to delay reform. This would play right into their hands.

What the amendment does not take into account is that we already have a Constitution with the fifth amendment that protects against takings. There is also a remedy. Under current law, if they think there is a taking, they can sue, but under the same laws applicable to any other company.

Once again, the intergovernmental satellite organizations and the U.S. affiliate, COMSAT, want to continue the special advantages they have always had.

Now, I thought I would take a moment to address the takings issue itself. The committee has thoroughly analyzed that there are no takings. CRS has looked at the issue. They found that ''a review of the bill's text reviews no provisions likely to cause constitutional takings.'' The committee's analysis, which quotes at length from the CRS, is available in the committee report.

I would now like to read a letter dated May 5 from the Washington Legal Foundation to me.

Dear Chairman Bliley, this is in response to your letter requesting a clarification of

WLF's views regarding the Communications Satellite Competition and Privatization Act in light of concerns that WLF's views had been mischaracterized.

I want to make it very clear that the Washington Legal foundation does not in the any way oppose your bill or in any manner support amendments to your bill. WLF does not engage or partner in any lobbying activity whatsoever. In fact, some members of the WLF's own advisory boards disagree with the WLF's legal analysis of the takings clause in connection with this legislation.

Unfortunately, when we sent our analysis to Members who requested it, we did not anticipate that it would be used as the basis for any legislative tactics or strategy which would oppose your satellite reform bill. We take no legislative position whatsoever. We are grateful for your leadership on free enterprise issues and appreciate the opportunity to clarify this matter for you. Sincerely, Daniel J. Popeo, General Counsel.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, if in fact there is no takings problem, then what is wrong with the amendment?

Mr. BLILEY. Reclaiming my time, the gentlewoman must not have been listening. They have the right under the Constitution now by the fifth amendment. What this does is it puts a chill on the FCC. As soon as they do anything, they will can run into court and tie them up for years. That is what the strategy of COMSAT is, delay, delay, delay, hold their monopoly, get those 68 percent profits as long as they possibly can; and if we are forced to privatize, set it up in such a way that all we have done is change the name, but we still have the monopoly.

Mr. WYNN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank my colleague, the gentlewoman from Montgomery County, Maryland, (Mrs. MORELLA) for her leadership on this issue. It is a very important issue to one of our own companies, COMSAT.

The question that is posed by this amendment is simply this: deregulation or plain old theft? This the question was posed by Nancie Marzulla, president of the Defenders of Property Rights, in an op-ed piece in the April 27, 1998, edition of the Washington Times.

In her piece they state clearly that the sponsors in the quest for deregulation have proposed Federal legislation that could end up costing American citizens hundreds of millions, if not billions, of dollars to cover COMSAT's takings claims. That is right, takings claims.

As reported by the Committee on Commerce, this legislation contains restrictions that will limit the services that COMSAT can offer using its satellite assets. The restrictions take effect if rigid milestones are not met for privatization. The critical point, however, is that these milestones are not milestones within the control of COMSAT; they are milestones beyond their control, in fact, in the control of international organizations.

COMSAT is urging and helping move toward privatization, but they cannot control the pace of privatization. Nonetheless, they would be subject to unfair restrictions if our imposed milestones are not met. And I do not believe that this is fair.

I know we have constitutional scholars in this body, and I call upon them today. This is an unconstitutional taking. COMSAT is a private, investor-owned company. COMSAT's contract rights are property; and under the fifth amendment of the Constitution, the government simply cannot take this property, which is what this legislation does, without paying for it; and I fully expect that COMSAT will be filing claims on this issue.

Should this occur, the money the U.S. taxpayers will have to pay as a result of litigation will far exceed anything we are contemplating now in the context of our tobacco concerns. The amendment being offered by my colleague today will significantly reduce our liability and that of our constituents by eliminating the takings provisions for the bill's restrictions on COMSAT. The amendment does the right thing by allowing COMSAT to continue to use its property, and I urge our Members to support this amendment.

Now, I applaud the purpose of the chairman with this legislation, and I think the intent is laudable and he has worked very hard. However, the underlying theory of this legislation is quite flawed. The sponsors of this bill would have us believe that COMSAT is a huge, untenable monopoly. This is simply not true.

In fact, there are more than 20 current competitors to COMSAT, with more than $14 billion in investments and $40 billion in stock value. If this is not competition, I do not know what is. I do not think we can ask for much more. But let us consider further.

In 1998, COMSAT controlled 70 percent of the international voice traffic. Today they have only a 21 percent share. Significantly, COMSAT's market share has declined. In 1993, COMSAT controlled 80 percent of the video market; today it controls 42 percent. Clearly, competition is emerging under our present structure. We do not need this piece of legislation to promote competition.

But finally and most telling, on April 28 of this year, the FCC declared that COMSAT is nondominant in most of its market, thus authoritatively eliminating the argument that we have to get rid of COMSAT or punish COMSAT because it is an egregious monopoly.

Despite these facts, however, the sponsors of the legislation, so intent on privatizing this industry, would subject our constituents to potentially billions of dollars in liability as a result of litigation.

I think Ms. Marzulla put it best in her op-ed piece when she said, ''Deregulation must be pursued with vigor. At the same time, promises governments made to private companies and on which investors based their investment, must be kept. Deregulation cannot be an excuse for the uncompensated confiscation of private property.'' And that is what we are debating here today.

I urge my colleagues to support and adopt the Morella amendment. I believe that this is a proper move and an appropriate step to making this bill something that we can support.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too oppose the amendment offered by the gentlewoman from Maryland (Mrs. MORELLA). The Morella amendment is premised on the notion that H.R. 1872, as reported out of the committee, would work a taking of COMSAT's property. This proposition seems to me to be entirely unfounded.

To begin with, I am at a loss to see any property that would be impacted by the bill. The term ''property'' has a particular legal meaning. It is not just a unilateral expectation, as the opponents of this bill have suggested, but rather an entitlement based upon a mutually explicit understanding.

The fact that COMSAT or its shareholders may have made investments with the expectation that COMSAT would continue to operate as the monopoly provider of INTELSAT and Inmarsat's services in the United States does not give them a property interest in those investments. Half the equation is missing.

To constitute property protected by the fifth amendment, COMSAT would need to show that these expectations were based upon a mutuality of understanding sufficiently well-grounded to create an entitlement protected at law. Of course, any such claim would collide headlong with the reality that when Congress established COMSAT in the 1962 Satellite Act, it expressly reserved the right to modify COMSAT's role in the market at any time.

□ 1230

To the extent that COMSAT and its shareholders made investments based on the provisions of the Satellite Act, they did so presumably knowing of the risk that Congress might some day do so. It is absolutely baffling to me that COMSAT could think that Congress created an entitlement, a property interest, by the terms of the Satellite Act. In any event, even if COMSAT had identified a protected property interest that would be impacted by H.R. 1872, the legislation hardly would reach the level of a regulatory taking, quote-unquote, under the Supreme Court's cases.

The bill will without a doubt adjust the benefits and burdens of economic life, quote-unquote, and end one of the last government protected monopolies in the telecommunications field. It would not, however, take any tangible property or vitiate any specific right or assurance conferred by the government. I therefore urge the Members to oppose this amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, the amendment gets to the nub of the question. It says this, and I can understand why the opponents of the amendment are so distressed about it, because it says,

> In implementing the provisions of this section, the Commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

What is wrong with that amendment? All it says is that the Commission has to respect the Constitution and cannot create a liability on the taxpayers because we have engaged in an unconstitutional taking or because we have violated the provisions of the Tucker Act.

I want my colleagues to listen to what the Washington Legal Foundation said. By the way, the gentleman from Virginia (Mr. BLILEY) is a major contributor to that agency and has sent them a wonderful letter in which he told them how he wanted to support the good work of that foundation. Here it is. This is what they had to say:

> In response to your written request for counsel, the Washington Legal Foundation has undertaken a legal analysis of H.R. 1872. After the consideration of H.R. 1872, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT. WLF's conclusion should not be construed as endorsement or opposition to H.R. 1872.

They are giving you a clear warning. The amendment says that the Commission cannot subject your constituents and mine to that kind of liability. I would want to observe something else. What this bill does is to impair contract rights of COMSAT and to impair the value, the good will and the corporate assets of that corporation.

The Supreme Court has been very clear on this point. They have said that the most significant factor in determining whether economic regulation constitutes a taking is the extent to which, and I quote now from the Supreme Court, ''the regulation has interfered with the owner's reasonable investment-backed expectations.'' That is from the Penn Central case, *Penn Central Transportation Company* v. *The City of New York,* 438 U.S. 104, 124, dated 1978.

They went on to say some other things which I think are important. They went on to say, ''The simple words,'' and I am now interpolating, the Supreme Court said ''that Congress may at any time alter, amend and repeal this act * * * cannot be used to take away property already acquired * * * or to deprive'' a private ''corporation of the fruits already reduced to possession of contracts lawfully made.''

We are here with considerable diligence in this legislation interfering in the contract rights of COMSAT. COMSAT's officers are, at the proper responsibility and under the insistence of their shareholders, most assuredly going to file suit under the Tucker Act. I can offer my colleagues firm assurances that the judgment that will be awarded to COMSAT will be most generous and it will be done at the expense of your constituents unless this body has the wisdom to adopt the amendment offered by the gentlewoman from Maryland.

It should be observed, this does not do anything, the amendment, except to assure that there will be no liability imposed on our constituents because of an unconstitutional taking by this body. I urge my colleagues to keep that thought in mind. You have a responsibility to pass legislation in this body which observes the Constitution, but which also does not subject our taxpayers to a liability for wrongful acts taken by this Congress.

I would urge my colleagues to keep carefully in mind that the sums here are not piddling. They amount to billions of dollars. My question to my colleagues, Mr. Chairman, is, do you want the responsibility on your soul and on your conscience of having dissipated this enormous sum of money and subjected your taxpayers to that kind of liability?

Mr. COX of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we have just heard from the ranking member on the Committee on Commerce that he is prepared to accept as a norm for debate and decision in the House in futuro the decisions of the Washington Legal Foundation. I think that will actually help us a great deal here in our deliberations in the House. I think he is quite right, the Washington Legal Foundation is a fine outfit. I will look forward to holding the ranking member to his new principle.

But the Washington Legal Foundation, which he sings the praises of, has written us a letter subsequent to the one that he is describing that says, ''I want to make it very clear, the Washington Legal Foundation does not in any way oppose this bill or in any manner support amendments to this bill.'' Specifically, the letter was written so that we would all know that they oppose this amendment. That is the position of the Washington Legal Foundation.

Furthermore, the Congressional Research Service has written us on the same point telling us that it is their legal analysis that the impacts described in the gentleman's presentation are not likely to support successful takings claims. That is the view of the Congressional Research Service.

So the question is not whether we are going to expose taxpayers to spending huge amounts of money because Congress did something wrong. This amendment would expose taxpayers to huge expenditures of their hard-earned money because Congress did something right, which is to take away the monopoly powers that this bill in fact takes away from COMSAT. This is not a Fifth Amendment taking.

Private actors can be disadvantaged in any number of ways by governmental action. A private landowner can discover that the value of her real estate is reduced to zero because of the land being declared essential habitat. That is an example of governmental action that ought to be considered a taking and the landowner in that case ought to be fairly compensated. But here our private actor is not some innocent landowner trying to recover from government regulation. This is a private company seeking to compel continued government protection for the unique monopoly powers, the privileges and benefits that flow from those monopoly powers that it enjoys. This is an anticompetitive policy that is in fact hostile to true property rights. In fact, current law unfairly restricts the ability of private companies to compete. Instead it guarantees to COMSAT's investors monopoly-sized returns on their investments.

What property does COMSAT have that it alleges is being taken? It suggests that takings claims are raised by the ''fresh look'' provisions of this bill. That is the language that enables the FCC beginning in 2000 to permit users or providers of telecommunications services to renegotiate contracts they signed with COMSAT prior to the repeal of its statutory monopoly as the only U.S. company authorized to sell INTELSAT services. In other words, COMSAT wants to retain its monopoly powers and anything less would be considered a taking.

The United States Supreme Court has repeatedly ruled that persons doing business in a regulated marketplace should expect the legislative scheme to change from time to time, even in ways that might be unfavorable to their interests. This principle was most recently reiterated by the Supreme Court in its unanimous 1993 decision in Concrete Pipe, which quoted from the Court's 1958 decision in FHA v. The Darlington. Here is what the Court said. ''Those who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent amendments to achieve the legislative end.''

Even if COMSAT were to pretend that it is not a participant in a heavily regulated marketplace, and, that would be a tough argument for COMSAT to make because they testified before Congress just last year that their company is hamstrung by a burdensome regulatory regime, Congress took special care when it created COMSAT in 1962 to let investors know that there would be no guaranteed return on their investment. These days COMSAT gets an 18 percent guaranteed rate of return. These days INTELSAT gets immunity from antitrust lawsuits. There is no doubt that H.R. 1872 will impair

COMSAT's ability to obtain monopoly rents in the international satellite marketplace, and that is the purpose of the bill.

While the bill does end an obsolete and outdated international monopoly, it does not deprive COMSAT of the right to compete in the new competitive marketplace. Instead, COMSAT will be forced to compete. Nor will H.R. 1872 bar COMSAT from providing service to the same customers to whom it presently provides service. But apparently in COMSAT's view, the company should be compensated by U.S. taxpayers if it is not guaranteed anything less than the absolute right to sell its services at inflated monopoly prices. That is a bad idea. Therefore, this amendment is a bad idea. I urge my colleagues to reject it.

Ms. ESHOO. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, this amendment is searching for a problem that does not exist. The argument that takings is an issue seems tenuous at best. The gentleman from California (Mr. COX) I think has done a superb job of rolling out the case in detail on this issue because it defines contracts as property, which I think is a new twist. I have not heard of that one before.

I would congratulate those that are offering the amendment and supporting it for coming up with such a unique take on this. But the argument that takings is defined as property I think is faulty. Furthermore, removing the FCC's ability to apply service restrictions, or a fresh look, actually cuts out the heart of the bill. These provisions are incentives to privatization and they are necessary incentives and need to be retained. I would like to believe that COMSAT and INTELSAT will act in all of our best interests without any prodding, but that does not seem to be the case, nor does it seem to be realistic.

As I warned in my opening statement, this amendment is designed to kill the bill, not to amend it or to improve it. If Members of the House wish to support and protect a monopoly, then they should vote for this amendment. If they are in fact pro-competition and pro-privatization, they should vote to oppose the amendment.

Mr. KLINK. Mr. Chairman, I move to strike the requisite number of words.

(Mr. KLINK asked and was given permission to revise and extend his remarks.)

Mr. KLINK. Mr. Chairman, I rise in support of the Morella amendment. The previous speaker, a dear friend of mine, had mentioned, and I, like her, am not an attorney but I think it is very clear that contracts are property. I think that the Supreme Court made that decision about a century ago. Beyond that, this legislation may or may not lead to privatization and competition in international communications. I do not think that we are all very sure if exactly that is going to happen. I have my doubts whether it will or not.

I think the approach has been backwards. But whether or not this legislation succeeds in its goal, one thing is clear, that your constituents will end up footing the bill. We could pass this bill, it may fail to open up telecommunication markets in foreign lands, and still could end up spending billions of dollars of your taxpayers' money.

□ 1245

We could end up with a very extensive status quo in telecommunications.

Many of the investment decisions that COMSAT has made over the years have been made at the urging of the United States Government, and if we look at comments made by Nancie Marzulla, who is the President of Defenders of Property Rights, she said that Congress would have to compensate companies for investments they made at the government's behest and approval, investments made specifically to solidify the U.S. as the satellite industry leader.

Similarly, if we take a look at comments made by the Washington Legal Foundation, if adopted, H.R. 1872 would effect a substantial compensable taking of private property, and yet this legislation will take away COMSAT's business, will force them to renegotiate contracts that do reduce the value of their investments and really open up the United States Government to liability for damage for takings of COMSAT property. Those contracts are real property.

Now I am reminded a little bit in this legislation of an old movie. I do not know how many of us in here remember the old movie ''Blazing Saddles.'' They had a sheriff in there, Clevon Little, who held a gun to his own head and said, as my colleagues know, ''If you don't let me out of here, I'm going to shoot myself.'' That is really what this bill does. If my colleagues view this as a United Nations of satellites, we are holding a gun to our dear friend, Billy Richardson's head. And I refer to him as ''Billy'' only because I have great affection and friendship for the U.N. Secretary. It is like us holding a gun to his head and saying to the other countries, if they do not do what we want them to do, we are going to shoot our own representative.

Mr. Chairman, that would be foolish, and I think that that is what this amendment tries to correct.

While the sanctions imposed by this bill may not work, they will cost money.

My colleagues should support the Morella amendment, block the sanctions that really do amount to a taking of property, try to save our constituents money, try to keep the United States satellite industry viable and competitive.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. KLINK. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I just want to ask a question to my colleagues on the other side.

They said there is no taking here, and so we need to have no fear on that. The gentlewoman from Maryland offers an amendment which says there can be no taking. Well, if they do not intend to do a taking, if the amendment says there is no taking, if in fact there is no taking, what is wrong with the amendment?

I would think those who say there is going to be no taking here would accept this amendment with vast enthusiasm and would be speaking for it, not against it. I am curious. What is it that they are trying to tell us; that there is a taking and so they do not want the amendment, or that there is not a taking so the amendment is not needed? I do not know.

But I do know one thing. If there is a possibility of the taking, we better doggone well see to it that we adopt the amendment so that we do not impose upon our constituents $6 or $7 billion of liability because of the unwise action in this Chamber today.

Mr. KLINK. Mr. Chairman, I thank the gentleman from Michigan.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. KLINK. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Let me first commend the gentleman on his statement. I cannot think of a better metaphor than the one he gave us that we are literally telling a U.S. company, ''We're going to shoot you and your customers if these international organizations don't do what we want.''

Do my colleagues know that in the bill is a provision that says even if they do what we want, they still have to shoot themselves? I will talk to my colleagues about that one in a minute.

Mr. KLINK. Mr. Chairman, I thank the gentleman for his insight, and I thank the gentleman for his leadership on this issue.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first let me say that I am pleased that the Washington Legal Foundation sent a letter of clarification to the chairman, the gentleman from Virginia (Mr. BLILEY). They should have because they are 503(c), they cannot lobby on a bill, they did not mean their letter to the gentlewoman from Maryland (Mrs. MORELLA) to be a lobbying effort. But notice they have not repudiated what they said. They have not said, we change our mind, we change our opinion.

Here is what they said this bill does, and Members who are listening in their offices or wherever they may be, I hope they pay close attention to this. This is what the Washington Legal Foundation said this bill does without the Connie Morella amendment:

It says that this bill provides that if INTELSAT and Inmarsat do not privatize quickly enough, as this bill hopefully gets them to do, this bill will punish COMSAT by telling COMSAT, this U.S. private company, that they

no longer can offer new services to their customers. All they can offer them is the old services they used to give them.

Well, as the Washington Legal Foundation points out, those core services are illusory because there are changes in technology causing those markets to disappear. If they cannot offer the new services, who the heck wants to do business with them?

This bill literally says to COMSAT and its customers, ''Quit doing business, shoot yourself in the head because you can't offer the new services that all the other companies will be offering its customers.'' Why? Because Inmarsat and INTELSAT did not move fast enough to privatize, even though they could not control that.

But it gets even worse. The bill also says that even if INTELSAT and Inmarsat privatize at the speed of light, if they are faster than a speeding bullet and stronger than a locomotive, and they get to this world of privatization faster than the chairman wants; even if they do that, this bill says that COMSAT's customers no longer have to keep their contracts. They can renegotiate them with whenever they want. They can leave doing business with COMSAT anytime they want.

Now put these two provisions together, and we really get the sense of what this is all about. This bill says in effect that COMSAT may not be able to offer its customers new services and, by the way, they can get out of their current contracts. Now what do my colleagues think is going to happen? If this bill passes without the Morella amendment, in fact, COMSAT is going to lose those customers.

Why? One, we just abrogated their contracts; and, number 2, they just found out that COMSAT may not be able to offer them any new services. Why would someone stay with a company that came out with new services when Congress just told them they do not have to keep their word, they do not have to live up to the terms of their contract? Why would one stay? They would leave.

And guess what? That is exactly what the people who are behind these two provisions want. Why? Because they are competitors of COMSAT. They would like to have those customers, and so they are asking us in Congress to rearrange the customer base, to send customers away from COMSAT and to send them to their competitors. That is exactly what is behind these two amendments.

And if we do that, if we do that, the Washington Legal Foundation warns us, warns us very clearly, that such sweeping congressional abrogation of the private contract rights of a single company, without any judicial determination of wrongdoing, may be unprecedented in U.S. history. What an awful taking. We do not even get to go to court. Congress says, ''Your property is gone.'' Congress says, ''Your contracts are no good.'' Congress says, ''The company can't give you any more services.'' Congress destroys a U.S. company. What an unprecedented taking in U.S. history.

And the Washington Legal Foundation concludes by saying,

> Congress may legitimately decide it no longer wants COMSAT to serve its historic role, but if it does so, it is required by the fifth amendment to compensate COMSAT's shareholders for all the immense capital they have put in public service at the government's request.

In short, we, the taxpayers and the citizens of this country, will have an enormous legal bill to pay because we in Congress incurred that debt, we in Congress abrogated contracts, we in Congress took away private property without providing compensation.

I suggest to my colleagues if there is going to be no taking under this bill, why not pass an amendment? If there is not going to be taking under this ''fresh look'' approach under this restricted service provision, if these contracts really will not get abrogated, if none of this will really happen, then what is wrong with the Morella amendment which says do not do it if it takes property under the fifth amendment. Do it only if, and only if, we are not taking property without compensation as a violation of the fifth amendment.

This amendment makes this a good bill. I urge my colleagues to adopt it for the sake of the taxpayers and the citizens of this country; more importantly, for those of us in Congress who have never been asked to vote to abrogate private contracts.

Mr. KLUG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment and I want to, if I can, address issues that have been raised by the last three speakers, the gentleman from Pennsylvania (Mr. KLINK), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Louisiana (Mr. TAUZIN).

Now for everybody who is sitting back home, in their office, in the Chamber, and really do not understand what we are arguing about in terms of satellite communication, let us make it very simple. There is a monopoly today, and today we are trying to end the monopoly. That is what this entire debate is all about.

Now contracts are not in perpetuity. The United States over the course of time makes lots of contracts. We buy everything from airplanes to railroad tracks to nuclear weapons and paper clips and staplers and cars and everything else in the world. We do not go to General Motors, say we are only going to buy cars from General Motors for the rest of our lifetime. We make a deal, the deal ends, and we move on. And that is essentially the principle we are discussing today: Can we end the deal with COMSAT?

Now everybody has said for the last 5, 6, 7 years that the monopoly should be reformed, and guess who leads the opposition today to this amendment? It is the monopoly itself because it wants to hold onto power, it wants to eliminate competition, and it wants to keep all the money for itself. Very simple rule in economics.

Now the gentleman from Pennsylvania (Mr. KLINK) said, the last phrase that he used was to say to keep the U.S. satellite industry viable and competitive. There is no competition today. There is only one guy who calls all of the shots. That is why every private satellite company that wants to compete supports this bill, and it is why every major user of satellite communications, the folks who buy stuff from COMSAT, want the bill; because they want a choice. They understand this, anybody who is listening to this debate today.

There are choices about what television stations to watch, what newspapers to buy, where to buy groceries, where to fill up the car with gasoline. And today, people who use satellite communication services, the purchasers, do not have any competition; it is a monopoly.

Now as to the heart of the amendment that this constitutes a taking, keep in mind that the fifth amendment of the United States already provides protection against anybody who thinks that their property has been unjustifiably seized and who wants compensation from the United States Government. There is a takings protection, and obviously everything that Congress does has to abide by the Constitution, and therefore COMSAT and anybody else we pass legislation affecting today has the ability to appeal back to the fifth amendment.

Now, if the fifth amendment already protects them, then they do not need this takings provision. If they need a takings provision, then it is not applied to in the fifth amendment. And they are essentially asking us to pass something that is already redundant and in fact is enshrined in the basic document that this body has to live by.

So that raises the question who wants the takings provision in here? And open up the mystery box, and reach inside, and who is inside there with a business card? It is COMSAT; because what they want to say is, ''You can't pass go, you can't force competition in the industry unless the FCC thinks it will do so.'' And so they can delay, by essentially saying there cannot be a taking; so the FCC has to go to court to prove that it is not a taking, and if it is not a taking, then we can go forward.

It is a delaying tactic. It is legal jargon thrown out there, with no sense of seriousness, and we have got one opinion that says there may be a remote chance that there is a taking.

Now the Congressional Research Service that does work for Congress to essentially figure out legal issues has said there is no taking, and our best legal experts inside Congress itself say that there is absolutely no reason for this taking provision because they are

protected by the fifth amendment; and secondly, because there is no takings here whatsoever. We are simply saying, ''You've had an exclusive deal for decades, you're the only people who run the satellite business in this country, and we're saying in Congress it comes to an end. It's over.''

The only way we are ever going to have competition for satellite providers and purchasers of satellite services is by making sure that COMSAT's monopoly comes to an end. And when monopolies come to an end anyplace, in the railroads, in the steel industry, the kind of debate we are now having about the computer industry in this country, the basic underlying economic theory is that competition drives prices down, it does not raise them.

And so if we take the argument of the gentleman from Pennsylvania (Mr. KLINK) to its logical conclusion, the only way we can have competition and lower prices in the marketplace is if the government gives everybody a monopoly, and then not only do we give them a monopoly, we give them a monopoly for eternity. They can never have any competition because that is a bad thing.

So for those of us in this body who are interested in competition, who are interested in fundamental economics, the choice that is good for the American consumer, then I urge the defeat of this amendment because it is only a delaying tactic to make sure that a monopoly can preserve its power as long as possible.

□ 1300

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, this is not a debate about takings. This is a debate about givings. The givings of the American people for 35 years to a single company and a single orbiting cartel. The American people gave this company a domestic monopoly over resale of INTELSAT and Inmarsat services. The American people gave to COMSAT and Inmarsat and INTELSAT immunity from antitrust law. The American people gave them privileged access to orbital slots and to spectrum. The American people gave them access to all of these privileges because there were no other companies, there was no other way of doing it; only by using this mechanism could we create this industry.

Over the years, the American people have granted the same opportunities to electric monopolies, to local telephone monopolies, to long-distance monopolies, to cable monopolies. But we always reserve the right, when technological change makes it possible, to introduce competition. In fact, within the legislation that was passed in 1962, the Congress expressly reserved the right to repeal, to alter, or to amend the provisions of the 1962 COMSAT–INTELSAT Act. We reserved to ourselves this right, as we always have.

Now, we can go back in history, all the way back to 1602 when Queen Elizabeth had granted to one individual and one company a monopoly on playing cards in England. Now, the Parliament ruled, after a point in time, that other companies should be able to get into the business of selling playing cards in England. It is the famous monopolies case. Now, the courts in England ruled that the Parliament had the right to have other companies sell playing cards, notwithstanding the original monopoly.

Standard Oil, 1911 in the United States, says, we have got a monopoly; the Congress has no right to break up our monopoly. The Supreme Court of the United States in 1911 ruled, the Congress has a right to break up monopolies, the Antitrust Division of the Justice Department has the right to break up monopolies. And every electric company, every telephone company, every cable company, every monopoly for time immemorial has argued that it is a takings. It is not. It is a givings. We gave it to them, and we have the right to take it back with reasonable economic regulation, which does not put them out of business.

We are not putting COMSAT out of business. We are allowing other companies to get into business, because the reality is that for at least the last 15 years, that taking has been COMSAT, INTELSAT and Inmarsat blocking other American company's ability to get into these markets.

The taking goes on every day when dozens of companies across America do not create jobs because they are denied the opportunity. They have had this right taken from them. The consumers do not have lower prices because that opportunity has been taken from them. That is what this legislation is all about. It is ending the giving, that we have been undertaking for 35 years, to a monopoly. That is the privilege of the Congress. We have always had this right and we will always retain that right.

So I say to my colleagues, we have a choice. Support for the Morella amendment is for a continuation of monopoly, of a global economic cartel with COMSAT as its American subsidiary, its American affiliate continuing on this tradition of denying American companies and American workers the ability to get into these industries the way we shoot to dominate the global marketplace.

I urge a very strong ''no'' on this amendment. For those of us who believe in competition, for those of us who believe in opening up markets, for those of us who believe that America is going to be the dominant telecommunications leader, a vote ''no'' here guarantees that we enter this world as its dominant power.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to a lot of the debate, and I am concerned about the giving as well, and sometimes we just give a little bit too much of the rock away.

With that, I yield to the distinguished subcommittee chair, the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Let me point out that this is not about monopoly, it is not about monopoly. COMSAT owns a franchise right to deliver services over these international satellites, but they do not have a monopoly. That is totally wrong. If COMSAT were a monopolist in this world of international telephone and other data services, then there would not be a Hughes or a PanAmSat Corporation, another private satellite corporation. There would not be a Loral, there would not be a Teledesic, a Columbia, Meridian, ELLIPSO, all private satellite companies just like COMSAT, providing communication services in this country and around the world. There would not be an undersea cable taking so much business across the oceans and delivering communications services across the world.

In fact, COMSAT's percentage of voice services right now is 22 percent. Does that sound like a monopoly? And have they signed monopoly contracts? Well, here is what the FCC said on April 24, 1998, just a couple of weeks ago, on that very point. It said that we conclude the contracts that COMSAT has signed, the long-term contracts to AT&T and MCI, actually permit AT&T and MCI to choose COMSAT's competitors for services. Does that sound like a monopoly, where one signs a contract that allows a company to use other competitors for services?

What I am trying to tell my colleagues is that this is not about a monopoly, as much as my colleague may want to make it about a monopoly. It is about whether or not one of these companies, COMSAT, which happens to be the government franchisee on these international satellite systems, which competes with all kinds of other private companies: PanAmSat, Loral, Teledesic, Columbia, Meridian, ELLIPSO and Cable Undersea, whether this one company and its customers are going to be hammered with unconstitutional takings. That is what the issue is all about.

Finally, let me make one other point. If any one of these companies, PanAmSat included, thinks that COMSAT has an anticompetitive contract, they have a remedy today. They can go to the FCC, they can go to the Federal court and they can demand that that contract be abrogated.

In fact, PanAmSat took a case to the district court just recently. Here is what the court said. Nothing in the record suggests that COMSAT secured any of the contracts by means of anticompetitive acts against PanAmSat. They threw PanAmSat out of court, and yet we in Congress are going to overturn that court decision and abrogate those contracts.

No. The amendment protects against this taking, and my colleagues ought to vote for it.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, listen to the language of the amendment. This is what it says: Takings prohibited. In implementing the provisions of this section, the commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the fifth amendment to the Constitution.

That is all it says. It does not say the commission is supposed to allow monopolies. It simply says, we are not going to subject the taxpayers of the United States to a $6 billion or $7 billion liability by taking property from COMSAT. If there is no taking under this amendment, I say to my friends who oppose it, there is nothing for them to fear. If there is a taking, by God, my colleagues better pray that this is in the bill, because if it is not, my colleagues are going to be trying to defend through our Constitution why they dissipated $6 billion or $7 billion of your constituents' and your taxpayers' money.

I thank the gentleman.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me summarize by pointing out that the Morella amendment simply says, do not do anything that is going to take private property that the taxpayers of America are going to end up having to pay for.

Now, the opponents say, well, the fifth amendment already protects them. It protects the company by making taxpayers liable.

That is not a good protection for us. If we want to protect the American taxpayers, we tell this bill and we tell the FCC, do not do anything that takes private property that American taxpayers are going to end up having to compensate for. That is why we need to pass this good amendment.

Mr. TRAFICANT. Mr. Chairman, in closing, I think the interpretation of the Constitution has been so perverted I think we had better be very specific on this takings issue.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, I know there are some differences of opinion in this Chamber and they are well founded, but all of us feel that there should not be improper takings.

We have had a number of opinions on it. Therefore, this amendment should be right in order and right in accord with what we have been saying. So put this amendment in the bill, it will make a difference, and this bill will then become law ultimately. Without it, there will be problems.

Mr. PITTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding.

The fifth amendment already addresses this; that is why we have a Constitution, to protect us. Here, once again, COMSAT wants special privileges. The Constitution is not good enough for COMSAT. They want special protection for a reason to be able to stop the FCC from implementing my bill, by tying it up in court. COMSAT's strategy is to delay because they make a monopoly of profits under the status quo at the expense of our constituents.

Let me say a couple of words about monopoly. COMSAT claims its share of the market for all switch voice and private line services is 21 percent. The figure is irrelevant. International satellite delivered services constitute a separate submarket within the larger market for international telecommunication services, because satellites provide more cost-effective service for thin traffic paths and because most carriers prefer to use a mix of cable and satellite facilities, international carrier 102 FCC.

COMSAT has virtually the entire market for international satellite delivered telephone onto itself. Separate satellite systems generally have not been able to carry public switch telephoning, which accounts for less than 1 percent of PanAmSat's revenues, Economists Incorporated, Market Power, Market Foreclosure and INTELSAT, February 16, 1998. By the time INTELSAT permitted separate systems to offer any meaningful quantity PSN service in November of 1994, COMSAT had already locked up the largest carriers to long-term contracts.

This amendment is a red herring; it is just a way for COMSAT to tie up the FCC in court for years and to preserve their monopoly. I hope my colleagues will vote the amendment down. I thank the gentleman.

Mr. DEUTSCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, hopefully, Members are listening to the debate and listening carefully, because there have really been a lot of red herrings, as my Chairman has stated previously.

The facts of the monopoly issue of COMSAT are just a fact. We have heard numbers thrown out: 20 percent of the market, 22 percent of the market. In the specific area of international satellite communications, it is 100 percent of the market. It is a monopoly. There is no way around it. It is a monopoly, that is, a statutory monopoly that this Congress granted for good reason many years ago.

But that monopoly that exists is a monopoly. If we are trying to communicate with a phone call from here, Washington, D.C., to Africa, to Asia, there is only one path to complete that phone call, and it is through COMSAT, through INTELSAT, 100 percent.

There is no option to that whole aspect, and if one does not accept that the monopoly exists, I guess if one wants to convince oneself that it does not exist, I do not see how one can, but I guess if one wants to, one can, then the next logical step I could understand one saying, well, there is a taking going on in terms of saying that some of the existing contracts need to be modified.

□ 1315

I guess if we accept that there is not a monopoly, then there is a logical step that we could take. But, again, I find it very, very difficult even to perceive that argument.

But let me follow up though really with the fact that the monopoly exists in terms of the issue of the taking. What has been spoken about before, and I think from a Member perspective to completely understand, is that those people who have contracts with COMSAT entered into those contracts in an environment of dealing with a monopoly, a monopoly in terms of the monopoly power that they had in terms of those contract negotiations. This is not the first time this type of situation has existed.

What I have pointed out previously and I think is absolutely appropriate as an analogy is when AT&T was broken up for long distance service, AT&T was a monopoly. It was broken up. When it was broken up, the existing contracts were able to be modified. That is exactly what is being done here.

It is not unprecedented. It has been done in other areas as well. That is the policy implication behind what we are doing.

Mr. Chairman, I urge Members to oppose the amendment and support the bill.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. MORELLA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 304, answered ''present'' 2, not voting 15, as follows:

[Roll No. 127]

AYES—111

Andrews	Clyburn	Frost
Archer	Condit	Furse
Baker	Conyers	Gekas
Barcia	Cummings	Gilchrest
Barrett (NE)	Davis (IL)	Goss
Bartlett	DeLay	Granger
Berry	Dingell	Gutknecht
Blagojevich	Dooley	Hall (OH)
Boehlert	Doolittle	Hall (TX)
Boehner	Doyle	Hamilton
Bonior	Ehrlich	Hilliard
Boucher	Ensign	Horn
Brown (FL)	Farr	Hoyer
Calvert	Fazio	John
Campbell	Filner	Johnson (CT)
Chenoweth	Foley	Johnson, E. B.
Clayton	Fowler	Johnson, Sam

Kaptur
Kilpatrick
Klink
Kucinich
Livingston
Maloney (NY)
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McIntosh
Meek (FL)
Meeks (NY)
Menendez
Minge
Mink
Morella
Nethercutt
Northup
Nussle
Oberstar
Owens
Oxley
Pascrell
Paul
Payne
Peterson (MN)
Petri
Pombo
Pryce (OH)
Rangel
Redmond
Regula
Riley
Rivers
Rohrabacher
Royce
Sabo
Salmon
Scarborough
Schaefer, Dan
Schumer
Sensenbrenner
Sessions
Skelton
Stark
Stearns
Stenholm
Stokes
Tauzin
Taylor (NC)
Thomas
Thompson
Torres
Towns
Traficant
Upton
Watt (NC)
Wynn
Young (AK)

NOES—304

Abercrombie
Ackerman
Aderholt
Allen
Armey
Bachus
Baesler
Baldacci
Ballenger
Barr
Barrett (WI)
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Bonilla
Bono
Borski
Boswell
Boyd
Brady
Brown (CA)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Camp
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Clay
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Graham
Green
Greenwood
Gutierrez
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (WI)
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Matsui
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Ney
Norwood
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker
Pastor
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Reyes
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sanchez
Sanders
Sandlin
Sanford
Saxton
Schaffer, Bob
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Turner
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (FL)

ANSWERED ''PRESENT''—2

Cardin
Sawyer

NOT VOTING—15

Bateman
Carson
Christensen
Fossella
Gonzalez
Hastings (FL)
Hutchinson
McCollum
McNulty
Neumann
Pelosi
Radanovich
Riggs
Rogan
Skaggs

□ 1340

Mrs. KENNELLY of Connecticut, Ms. MILLENDER-McDONALD and Messrs. HEFLEY, MILLER of California, SPRATT, CASTLE, LEVIN, and FOX of Pennsylvania changed their vote from ''aye'' to ''no.''

Mrs. JOHNSON of Connecticut, Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. DOOLEY of California, CLYBURN, OWENS, and STOKES changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. TRAFICANT:

At the end of the bill, add the following new sections:

SEC. 4. COMPLIANCE WITH BUY AMERICAN ACT.

No funds authorized pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–30c, popularly known as the ''Buy American Act'').

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Federal Communications Commission shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 6. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspensions, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

MODIFICATION TO AMENDMENT NO. 8 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that the amendment be modified with the language at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 8 offered by Mr. TRAFICANT:

In lieu of the matter proposed to be inserted by the amendment, on page 33 after line 17, add the following:

(4) Impact privatization has had on U.S. industry, U.S. jobs and U.S. industry's access to the global marketplace.

The CHAIRMAN. Is there objection to the modification offered by the gentleman from Ohio (Mr. TRAFICANT)?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I support this legislation. I want to commend the gentleman from Virginia (Mr. BLILEY), the gentleman from Massachusetts (Mr. MARKEY), and the gentleman from Michigan (Mr. DINGELL), the gentleman from Louisiana (Mr. TAUZIN) regardless of how they feel on the issue.

The time has come for this legislation. I have some concerns. In this legislation is a section that requires annual reports to the Congress of the United States. The contents of those reports are listed to include the following progress with respect to each objective since the most recent preceding report. You see, these reports are to measure whether or not this legislation is meeting the objectives and is carrying out the provisions of its intent.

The first thing the bill calls for is the progress it makes to do that; the second is the views of the respective parties with respect to the privatization issue; finally, the views of the industry and consumers on privatization.

Quite frankly, although I am concerned about the views, my biggest concern is not about anybody's views, my big concern is about the impact this legislation will have on jobs, the United States industry, United States competitiveness, and our access to the global marketplace from a competitive spirit.

The Traficant amendment simply says that there would be another section in this report language that will ask for each year from the President and the Commission to update us on the impact that privatization has had on U.S. industry, United States jobs, and United States industry's access to the global marketplace.

I would hope that the legislation would be accepted. It makes, in my opinion, good sense.

Mr. Chairman, I yield to the distinguished gentleman from Virginia (Mr. BLILEY).

□ 1345

Mr. BLILEY. Mr. Chairman, this gentleman has reviewed the amendment and finds it acceptable and urges Members to vote for it.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman very much and I want to congratulate him on his amendment. I think he is adding substantially to the nature of this bill, in the change which is taking place internationally, its impact upon the United States, and how fully we should understand it. I thank the gentleman very much.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, I appreciate the gentleman's comments, and I am hoping that impact is going to be favorable.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I wanted to thank my friend for offering the amendment, congratulate him on it, and suggest that not only do we not have any opposition to the amendment, but we gratefully and warmly embrace it, and I would urge all Members to support it.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment, as modified, was agreed to.

The CHAIRMAN. The committee will rise informally.

The SPEAKER pro tempore (Mr. DUNCAN) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1998

The Committee resumed its sitting.

AMENDMENT NO. 4 OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. GILMAN:

Page 33, line 5, strike ''the Congress''; and insert ''the Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate''.

Page 33, beginning on line 20, strike ''Committee on'' and all that follows through ''of the Senate'' on line 22 and insert the following: ''Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate''.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, I commend the gentleman from Virginia (Mr. BLILEY) for taking up this complicated issue of international satellite policy. Furthermore, I support the basic purpose of this measure, which is to move ahead with privatizing the intergovernmental satellite organizations. It is an important undertaking to meet the current telecommunications marketplace.

However, in consultation with the distinguished ranking minority member of the House Committee on International Relations, the gentleman from Indiana (Mr. HAMILTON), I am offering an amendment to make a simple change to the bill before us. It merely adds the House and Senate Committees on International Relations to the committees required to be consulted prior to the meetings of the INTELSAT or Inmarsat Assembly of Parties, and revises the annual reporting requirement to also include these committees.

We are interested in this legislation because changing international communication satellite policy has foreign policy implications. I want to be clear we are not seeking to interfere with the Committee on Commerce's jurisdiction to determine telecommunications policy, but the State Department is the lead agency in the negotiations with the intergovernmental satellite organizations.

State traditionally has had the lead in multiagency teams negotiating with any international organizations. Inclusion of the Committee on International Relations in the reporting and consultative process allows the committees to perform their fundamental oversight responsibilities.

I hope the chairman will be willing to accept this amendment. This bill raises other concerns, which were flagged in testimony by the administration last fall. These issues, such as including specific directives on the conduct of the negotiations, deserve further consideration.

I have a concern about the expanded responsibilities given to the Federal Communications Commission in this bill for the multilateral negotiations aimed at privatizing INTELSAT. The President should have the discretion of ensuring that our State Department, and any other relevant government agency, plays a role in this process.

I look forward to continuing to work with the Committee on Commerce as the bill proceeds through the process.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I have reviewed the amendment and think it is a fair proposition. The State Department plays an important role in international negotiations, including regarding the intergovernmental satellite organizations.

My understanding is that this amendment is not intended to and in no way does affect the jurisdictional interests of our committees in the bill. Does the gentleman agree?

Mr. GILMAN. Mr. Chairman, reclaiming my time, this amendment has no impact nor is it intended to have an impact on our committees' jurisdictional interest.

Mr. BLILEY. Mr. Chairman, if the gentleman will continue to yield, with that understanding, I think we are prepared to accept the amendment.

Mr. GILMAN. I thank the chairman for his considerable consideration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment. It is amendment No. 7.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. TAUZIN:

Page 28, beginning on line 14, strike section 642 through page 29, line 24, and redesignate the succeeding sections accordingly.

Mr. TAUZIN. Mr. Chairman, let me first apologize for the complexities in this bill. There is no way for us to deal with satellite policy and the extraordinary nature by which this highly technical industry has developed without some very technical provisions.

Let me secondly again compliment the chairman and the gentleman from Massachusetts (Mr. MARKEY) for the bill. It is a good attempt at accomplishing something which must be accomplished very soon, and that is the privatization of the government organizations, INTELSAT and Inmarsat, which service telecommunications needs across the world.

Let me thirdly point out that the amendment I offer is in no way, shape, or form designed to gut this bill. It does not. It is a very targeted amendment which deals with a single provision in the bill, which many of us believe ought not be in the bill if we want a bill passed to accomplish its good purposes.

Now, what is the provision that this amendment deletes? It is a very simple provision. It is a provision that says that the contracts that COMSAT has negotiated with companies like AT&T and MCI, those contracts to provide services over their network, could be abrogated by those customers unilaterally, at their own will, within a couple years. In effect, the provision in this bill is a grant of right by Congress to companies that have executed willfully, freely, contracts with COMSAT to then decide they will no longer keep

those contracts and move their business to another company.

Now, is it our business to be abrogating contracts? Well, my colleagues will hear from the opponents of my amendment that this concept called ''fresh look'' is something that is often employed when monopolies are regulated and competitive market places are established. That is true, ''fresh look'' is a concept employed. ''Fresh look'' is available today to any competitor who wants to go to the FCC or to the courts and argue that it has a contract with COMSAT that was entered into in an anti-competitive mode.

Companies have done that. In fact, PanAmSat, one of COMSAT's competitors, went to the FCC and argued that the contracts that COMSAT had signed with some customers were, in fact, anti-competitive contracts and the FCC ought to order them abrogated. They lost that case. They took it to the district court and the district court ruled against them.

The district court ruled, in effect, that the contracts we are talking about here, signed by AT&T and MCI with COMSAT, were contracts that were willfully negotiated; that, in fact, contracts they signed on a long-term basis with COMSAT after turning down offers by PanAmSat and other competitors, willfully signed; and contracts that even allowed MCI and AT&T, indeed, to reroute their services when they wanted over their competitors. They were not anti-competitive contracts at all. The court ruled in favor of COMSAT that its contracts were valid, not anti-competitive, and that they should be honored.

Now, this bill does something very strange. This bill does not say that PanAmSat and others have a right to go and challenge these contracts. They now have that right. This bill overturns the district court, overturns the FCC, and gives to AT&T and MCI and the other customers the right unilaterally not to honor their contracts anymore, without any finding that COMSAT has done anything wrong or that these contracts are anti-competitive to any extent.

In effect, this bill asks my colleagues and myself, as Members of Congress, to vote to abrogate private contracts that the courts have already determined were freely and willfully entered into. This bill asks my colleagues and I to abrogate contracts that should be honored by the parties to that contract.

Now, why does it do that? Does it do it to punish COMSAT for bad behavior? No. The bill says that whether or not COMSAT does a good job in deregulating INTELSAT and Inmarsat, whether or not INTELSAT and Inmarsat do a great job of privatizing and deregulating their operations, if everything goes right, this bill still abrogates COMSAT's contracts with these people.

Now, why would we want to do that? Are we just mean? Are we interested in special interest kind of laws that gives customers to one company instead of another? Has COMSAT done anything that requires us to take away their contract rights and to let their customers out? To all of these things I hope the answer is no, and I hope my colleagues will vote for this amendment which takes this single provision out of the bill and protects contracts that deserve protection in the free market.

Mr. BLILEY. Mr. Chairman, I rise in opposition to the amendment.

While I appreciate my colleague's support of the general goals of the bill, I cannot support his amendment. ''Fresh look'' is a policy used by the FCC in the past to foster competition in a market previously characterized as noncompetitive. Once the FCC removed a barrier to competition and enabled others to compete, in none of the previous instances did a court find the FCC's use of ''fresh look'' amounted to a taking, nor does our bill.

First, our bill does not abrogate private contracts; it merely gives consumers who entered into contracts with COMSAT, when it was the monopoly, the opportunity to renegotiate those contracts once that monopoly has ended. Most customers will probably stay with COMSAT if it provides quality service at a reasonable rate.

We have public statements of support for ''fresh look'' from a number of users, including the long-distance companies and the maritime users who have benefitted in the past when the FCC required ''fresh look'' in other instances.

The gentleman notes that ''fresh look'' will enable the long-distance carriers to get out of their contract obligations with COMSAT. Those contracts for INTELSAT capacity were entered into when COMSAT was a monopoly for such capacity.

To claim that these contracts were entered into voluntarily and, therefore, Congress should not permit their renegotiation, reminds me of a story I heard from a member of Parliament from another country. He was telling how he had flown to the States with his own country's government-owned airline instead of taking a U.S. carrier like he usually does. He asked the flight attendant if there was a choice for dinner that night. She paused for a moment and said, yes, there is a choice; you can either have dinner or not. Well, he voluntarily chose to take what was offered.

And the carriers voluntarily entered into contracts with the monopoly distributor of INTELSAT services. They could have chosen voluntarily not to have satellite redundancy, and, if there was a failure on their own cables, risk losing their customers; but they chose instead to contract with the monopolist rather than risk losing their customers during cable outages.

But that is not the kind of choice our bill is after. Under our bill, in January 2000, when direct access or competition to COMSAT for IGO access is permitted and COMSAT's monopoly is thereby terminated, then users will be able to negotiate with new interest. What is wrong with letting users negotiate lower rates? Their consumers will benefit from carriers' lower costs.

Second, the provision in the bill would not result in an unconstitutional taking of COMSAT's property. Takings are most often found with real estate. COMSAT has no property right in its FCC licenses. While it may argue it has a property right in its service contracts, the frustration of contracts due to economic regulation by Congress is not a permissible taking of property.

☐ 1400

Frustration of contracts is not unconstitutional, but I do not think a court would even find frustration or abrogation. A ''fresh look'' merely gives COMSAT's customers a chance to renegotiate once competitors are available.

Third, COMSAT has no reasonable expectation in the status quo that would be tantamount to a property right, since COMSAT has been operating in a heavily regulated environment since we created it back in 1962, under a statute in which we expressly reserve the right to alter the regulatory landscape governing COMSAT at any time.

Moreover, the provisions would not subject the U.S. Government to any liability under the Tucker Act or any other statute, because they do not result in an unconstitutional taking.

Moreover, COMSAT still has a monopoly for INTELSAT and Inmarsat services. It makes eminent sense and is consistent with FCC precedent to enable COMSAT's customers to take advantage of the presence of new competitors once COMSAT's monopoly is eliminated under the bill. Without ''fresh look,'' the elimination of COMSAT's monopoly will have less of a competitive impact, since customers will be unable to take advantage of new opportunities if they are locked into long-term commitments entered into when COMSAT was the only game in town.

There has been a lot of double-speak that COMSAT does not have a monopoly because of fiber optic and satellite competitors, and this Congress should not be adjudicating whether COMSAT has a monopoly but should leave it to the courts to decide. That is a whole lot of nonsense.

Congress' action, in passing the Satellite Communications Act of 1962 resulted in COMSAT obtaining a monopoly. And the FCC implemented that act so that today COMSAT and COMSAT alone may offer INTELSAT and Inmarsat services. Sure, COMSAT has competition from the long distance providers on their fiber-optic cables on certain routes and from some private systems with video and other services, but that does not mean they do not have a monopoly for INTELSAT and Inmarsat services. And only INTELSAT and Inmarsat have a global, ubiquitous reach that gives them a

special place in the international market.

I urge defeat of the amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I would like my colleagues to listen to the language of the bill that the amendment would strike. And it begins with the fact that every year everyone who has a contract with COMSAT may do something under this legislation which says, ''permit users or providers of telecommunications services that previously entered into contracts under a tariff commitment with COMSAT to have an opportunity at their discretion for a reasonable period of time,'' and I note each year they may do this, ''to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination of charges in any such contracts with COMSAT.''

What we are literally doing is saying that COMSAT has no contract which will stand for more than 1 year and will be constantly subject to repudiation by every provider or by every customer.

Now, if that is not a violation of the contract clauses of the Constitution or of the fifth amendment provisions with regard to the protection of property rights, then I am the Queen of the May. And I would remind all of my colleagues that this is going to subject the United States to enormous liability for being sued for having interfered with the rights under contract and for having interfered with the property rights of COMSAT. Imagine how we would run a corporation if we were afflicted with that kind of provision. Let me just read something else.

PanAmSat, one of the well-known fat cats that is at the bottom of this mess and which is a major pusher of this legislation, sued COMSAT. A Federal judge considered all the pleadings, all the facts, and he decided in favor of COMSAT. Why? He said, and this is a quote from the judge, ''Moreover, although the record does not reflect that COMSAT entered into long-term contracts with many common carriers, nothing in the record suggests that COMSAT secured any of the contracts by means of any anticompetitive act against PAS. On the contrary, the record suggests that, for their own reasons, the common carriers elected to secure long-term deals with COMSAT only after considering and rejecting offers from PAS.''

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I am confused. I just heard from the chairman of the committee that this was like that meal on the British airlines, he either had to eat or not eat; there was no other option.

Is my colleague telling me that the people who signed these contracts had other options to sign with PanAmSat and turned them down?

Mr. DINGELL. Mr. Chairman, reclaiming my time, the answer to the question is yes. The answer to the question is also that the Federal judge involved here considered the questions in a much more thoughtful, careful, and responsible way after hearing all the pleadings than did my beloved friend, the chairman of the committee, who has not apparently been privy to the kind of information that the judge was.

Here we had a fair hearing. Everybody had a chance to have their say, not something which we have seen here.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I know the gentleman would not want to mislead the committee.

On page 28, section 642 of the bill, it says that they have a fair opportunity at their discretion for a reasonable period of time to renegotiate those contracts, a one-time deal.

Mr. DINGELL. Mr. Chairman, reclaiming my time, every year.

Mr. BLILEY. Mr. Chairman, If the gentleman would further yield, no, not every year.

And on page 62 of the report it repeats it again, a one-time opportunity to renegotiate contracts of commitments on rates, terms, and conditions.

Mr. DINGELL. Mr. Chairman, the staff of this committee has been very good in changing the language of the bill in the report, something which regrettably they are not capable of doing.

What we have here before us is a very simple matter. They are interfering here under this legislation with the rights of contract. They are interfering here with property rights. And they are going to have a liability for the taxpayers of this country under the Tucker Act, and it is going to be billions of dollars.

They also have before them a case where the matters have been considered by a Federal judge, having heard from PAS, having heard from COMSAT, having heard all the facts. He said, people go to COMSAT after they have heard from the others and given them a full opportunity to compete.

Ms. ESHOO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the Tauzin amendment.

Mr. Chairman, first I think that, for all of our House colleagues, there was a statement that was made earlier that this is a very complex issue, and we owe it to our colleagues that were not part of the debate on the Committee on Commerce to offer them some clarity.

What is this amendment about? This amendment is about a provision in the bill entitled ''fresh look,'' and what it would do is strike it; it would take it out of the bill. Now, why did the committee pass the bill out to the floor with this particular component, this element of the bill, and why did we find it important?

First of all, ''fresh look'' is a critical component of the bill. Why? Because it is what will help consumers realize the benefits of competition and doing away with a monopoly. The service providers are going to have to be able to take full advantage of direct access to INTELSAT so that the bill provides consumers what we are promising them, and that is competition.

It does not do any good to say to companies, ''Okay, go ahead, negotiate the best deal possible'' if, in fact, they are still locked into something that they agreed to when they were still a monopoly. And so ''fresh look'' is a provision in the bill that will allow companies, one time only in the year 2000, to take a ''fresh look'' and to move on from there into a procompetitive environment and leaving the monopolistic environment behind.

''Fresh look'' will enable companies to take advantage of privatization, which is really what the underpinnings of this legislation are all about. So again, if my colleagues support privatization and procompetition, then they will vote ''no'' on this provision.

''Fresh look'' is necessary. We must be able to take a fresh look in order to be competitive. I urge my colleagues to vote ''no'' on the Tauzin amendment.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support of the Tauzin amendment. I was also supportive of the amendment offered by my colleague, the gentlewoman from Maryland (Mrs. MORELLA).

I rise in support of this amendment because I believe that a contract should have the highest regard by this body. In fact, the Constitution prohibits us from abrogating contracts.

The fact of the matter is, as the gentleman from Michigan (Mr. DINGELL) and as the gentleman from Louisiana (Mr. TAUZIN) and others have pointed out, the judge found that there were alternatives. In other words, there were parties with whom the parties dealing with COMSAT could have dealt with alternatively.

The judge found that for economic reasons, obviously of their choosing, they did not do so. In fact, they made an independent judgment to enter into a contract. They may not like that contract now. This is not an unusual circumstance.

On the Subcommittee on Treasury, Postal Service, and General Government, for instance, on the telephone contract that the Federal Government had, we were constantly looked to to abrogate the contract and allow new competition prior to the term of the contract expiring. So this is not unusual. Parties to contracts often come to the Congress or to the legislatures and seek for a new deal or, as this amendment says, a ''fresh look.''

Well, ''fresh looks'' are nice. ''I liked the contract a year ago, but I do not

like it now. So how about a fresh look, troops? Let us look at it one more time, freshly.'' Well, the person that does not like the contract may think that is very nice, but the other person with whom the contract was made may think to themselves that is a jaundiced look, not a fresh look; it is a look that they have taken advantage of the contract for as long as they determined was advantageous to them, but now, ''Guess what? I want to change the deal.''

Mr. Chairman, I would hope my colleagues would support the Tauzin amendment. This ''fresh look'' provision that is contained in the bill is not fair. It is not fair because it says that the contracts that were entered into freely, as the judge said, do not need to be honored.

It is my understanding from the gentleman from Louisiana (Mr. TAUZIN), and I do not purport to be an expert on the technical nuances of this particular piece of legislation, but I am informed that in fact these contracts have a term. They are not unlimited. These parties are not bound by these contracts in perpetuity.

In point of fact, the contracts have a term that will end; and at that time, under the contract, as is fair and every American understands, at that time the parties will have the opportunity to have a fresh look, not legislatively mandated but mandated by the agreement of these two parties in their contract.

The sanctity of contracts is critical to the free market system in which we flourish. The sanctity of contracts is one of the things, as a lawyer, we learn to honor from the very beginning, which is why it is so important to make sure that a contract was in fact entered into, because once entered into, it cannot be abrogated by either party without damages occurring.

Again, that is another reason, Mr. Chairman, we ought to adopt the Tauzin amendment and reject the provision of the bill. Why? Because these are private stockholders, who have invested their money, who are going to sustain a loss if these contracts are abrogated; and, if so, we may well subject the Government to over a billion dollars in damages I am informed. Think of that, over a billion dollars in damages. Why? Because this contract sought to give relief to parties who voluntarily entered into a contract and who now want a fresh look.

□ 1415

Mr. Chairman, we can change the policy, but we ought to change it prospectively. We ought to say we are going to change the rules and when the contract is over, you are going to play under these new set of rules. But the parties that entered into a contract under a set of rules will play under those rules for the term of the contract. That is elementary, my Dear Watson, if I can coin a phrase.

I would hope that this amendment would pass, that it would pass handily, and we would send a message to those who enter into contracts. As long as those contracts are entered into freely, they will be honored by this legislative body.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in opposition to the Tauzin amendment regarding fresh look. H.R. 1872 holds much promise for expanding consumer choices and lowering consumer costs of international satellite communications. This amendment would jeopardize all of that. A key reason H.R. 1872 will benefit consumers is that it will end the current monopoly that COMSAT enjoys by statute as the sole reseller of INTELSAT and Inmarsat services in the United States. Currently users of these satellite systems have no choice but to go through COMSAT to purchase INTELSAT and Inmarsat services. In some cases, such as some telephone and television services, there are few or no choices except to use the INTELSAT and Inmarsat satellites.

A recent study estimated that U.S. customers would save $1.5 billion over 10 years once monopoly access to INTELSAT and Inmarsat ends. H.R. 1872, the bill before us, permits COMSAT's customers to renegotiate their contracts once the monopoly is ended. Fresh look is an established way to transition from a monopoly market to a competitive market. The FCC has applied the fresh look policy before when new competitive choices were made available to customers. It has allowed customers to renegotiate long-term contracts entered into when no competition existed.

Today COMSAT is the sole U.S. reseller or distributor of INTELSAT and Inmarsat services. Each and every user of those satellite systems in the United States has no choice but to enter into a contract with COMSAT for these services. These are long-term contracts. The bill will end this monopoly. Thus, it is critical to creating the new competitive environment that customers be given the opportunity to renegotiate, take a fresh look at the long-term contracts they entered into when the statutorily created monopoly was in force. Without fresh look, these customers will be locked into long-term contracts and denied the benefits of the new competitive choices. Competition will truly be meaningless if all customers are locked into long-term contracts.

I know there has been a lot of smoke generated about this and how this would operate as a taking of property. I do not believe that giving customers an opportunity for a fresh look at their contracts would result in such a taking. This is not a new policy. The FCC has applied it successfully in several occasions.

Moreover, the courts have never accorded contracts the status of protected property because contract rights are subject to changes in the law. COMSAT is a creature of Congress and Congress expressly retained broad rights over COMSAT and the right to change the 1962 law.

Fresh look does not punish COMSAT. COMSAT and its customers are free to continue their contracts. As long as COMSAT provides high quality services at competitive rates, underlying competitive rates, it has nothing to fear. Customers will be the real winners here and whether they stay with a newly competitive COMSAT or choose a new alternative will be their choice.

Fresh look is pro-consumer. It gives users the right, not the obligation, to renegotiate their contracts in light of the new competitive choices. It is essential to end the monopoly. I urge my colleagues to vote against this amendment.

Let me just add. I was very pleased to see this, a letter from one of the satellites users, CSX and its subsidiary Sea-Land, a large maritime shipping company, recounting its use of fresh look regarding 800 number portability. When fresh look was implemented for 800 numbers, CSX saved $4.5 million per year. CSX wrote the gentleman from Virginia (Mr. BLILEY) stating, ''We look forward to using the similar opportunity as provided for under H.R. 1872 so that we can pay competitive prices, rather than monopoly prices, for satellite services.''

Any claim that users do not want fresh look is false. All Members should vote against this amendment. It will harm consumers and prevent competition from developing.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in very strong support of the Tauzin amendment. It is fair, it makes sense, and it may well save us over a billion dollars; that is, the taxpayers.

Fresh look really is not fresh look. It is really a fresh theft, as has been stated, because it is going to abrogate those contracts that had been willfully signed by an American company and its customers, I really believe, and others have felt the same way, legal authorities, that it is going to subject the U.S. Government to a successful takings claim.

The opponents of COMSAT have said that it has locked up the market with long-term contracts and so therefore the customers should be afforded an opportunity unilaterally to breach their contract to take a fresh look at any available competitor in the marketplace. This is not a sound idea. It is wrong. Therefore, the Tauzin amendment will eliminate the unconstitutional provisions that would abrogate COMSAT's contracts, which are property, and it would preserve the integrity of COMSAT's carrier contracts. Those contracts were entered into voluntarily by COMSAT and the largest international carriers. The government may not nullify the express terms of a company's contractual obligations without compensation. This amendment with these provisions makes

sense, it is appropriate, and it will save taxpayers money.

Mr. Chairman, I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me point out that this notion of fresh look is already in the law. The notion of fresh look is already in the law. It is a remedy that already exists for the parties. If they think they have a contract that was entered into where they did not really have a choice, like some of these proponents of the bill have pointed out, then they can go to the FCC, go to court and have that contract abrogated. They can do that today. In fact, as I said, PanAmSat tried. PanAmSat is a private satellite corporation owned by Hughes Satellite. They went to court and argued that some of the contracts that COMSAT had signed were in fact entitled to a fresh look. The court threw them out on summary judgment. They did not even have a trial. The court threw them out on summary judgment and said, ''There are no facts here to indicate that your contracts ought to be abrogated. In fact if you signed it, you ought to live by it and you ought to honor it.''

Why should we in this Congress overturn that court now and say it is okay for people to get out of their contracts? Did they have other choices? Yes. The court so ruled that they actually rejected other choices before signing up with COMSAT. Did they sign it willfully for their own reasons? The court so ruled. Were there other companies they could have gone to?

In 1996, the FCC ruled that there was sufficient competition in the space segment service market and ruled in fact that ''we find substantial competition in that marketplace with the introduction of satellite cable systems that compete with INTELSAT.'' The companies who signed these contracts had other choices. They rejected them. They signed with COMSAT. Now they would like to get out of them. They went to court to say, ''Let us out of these contracts.'' The court threw them out on their ear and said, ''You're not even entitled to a trial. You're out on summary judgment. Your contracts are going to be honored by this court.'' But not by this Congress? Your contract is your word, your bond, you are going to live by it. But not by this Congress? What right do we have under our Constitution to tell some people it is okay to get out of your contracts? When you sign a contract to get some services for your company, would you like it if I told those people who signed up with you they can get out whenever they want? You would think I am out of bounds, and I would be. And Congress would be out of bounds if we in fact abrogated these contracts. I urge my colleagues to adopt this amendment.

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, what happens every time this provision comes into play is that the competitors, the providers, the suppliers and the customers of COMSAT then get together and they renegotiate the contract, and COMSAT has got to constantly reduce rates, reduce rates, reduce rates.

As the distinguished gentlewoman has said and as the gentleman from Louisiana has said, COMSAT now is subject to fresh look. The FCC about a week or 10 days ago took a look at this. What did they find? First of all, they found that COMSAT is not a dominant carrier. They are a nondominant carrier.

The CHAIRMAN. The time of the gentlewoman from Maryland (Mrs. MORELLA) has expired.

(On request of Mr. DINGELL, and by unanimous consent, Mrs. MORELLA was allowed to proceed for 1 additional minute.)

Mrs. MORELLA. Mr. Chairman, I continue to yield to the gentleman.

Mr. DINGELL. Mr. Chairman, they also did something else. They looked at whether or not the Commission should utilize this extraordinary remedy of fresh look. They said it was not necessary. They said it was not proper. They said it was not justified. Yet here we in the Congress, with no hearings, with no information, simply with power for prejudice and enormous lobbying effort by COMSAT's competitors are going to simply put into place this fresh look provision. And we are going to subject our constituents and the taxpayers to billions of dollars in liability for our stupidity.

I thank the gentlewoman for yielding.

Mrs. MORELLA. Mr. Chairman, I agree with the two speakers that just preceded me on my time, and I urge this body to vote for the Tauzin amendment.

Mr. DEUTSCH. Mr. Chairman, I move to strike the requisite number of words. I think this is a personal record. I do not think I have ever spoken on a bill on the floor of this House three times in one afternoon, but I am going to do that because some of the debate, some of the comments by other Members have done it at least three times as well.

Just going through what the bill does and the present reality in the market I think is critical for everyone to have a very keen understanding before they vote. The legislation absolutely provides that people who have entered into a contract in 2000 would have an ability, a one-time ability to renegotiate that contract.

Let us talk about why people entered into those contracts. They entered into those contracts because they had no choice. Today if you want to call from Washington, D.C. to Africa, there is only one way to do it, and that is through COMSAT. I do not know what definition of monopoly my colleagues are using, but that is a definition of monopoly. We keep hearing the fact, we have two sides of this debate, some saying there is a monopoly, some saying there is not a monopoly. Let me again talk in specifics. There are locations where there is underground cable. For instance, if you want to call from here to England, you can actually go through an underground cable. So in that market there is competition. But for a significant part of this market there is no competition at all but a government-granted monopoly that we as the United States Congress granted.

Let me talk about abrogating contracts. It is a very serious thing that we ought to think about. In the State of Florida that I represent, there are only two times in the Florida judicial system that there is a 12-person jury, when the death penalty is a possibility or when you are going to be taking someone's property. If someone has a potential penalty in Florida of life imprisonment, it is a six-person jury. But in Florida if we are going to take one foot of your property, it is a 12-person jury.

□ 1430

So let me tell my colleagues something. I come from a State where we take property rights very, very, very seriously. This is not an issue about property rights and taking. It is an issue of how are we going to implement a new competitive paradigm in telecommunications. And again the facts are that we have done this before. And for the third time, I am going to mention what we have done before; that when AT&T was broken up, the exact same procedure was used. Contracts that were in place were allowed to be renegotiated because of why and how those contracts were implemented.

Mr. Chairman, I urge the defeat of the amendment and passage of the bill.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. DEUTSCH. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I just want to point out to the gentleman that not only can someone call Athens by many other providers other than COMSAT, COMSAT is not even a dominant carrier to Athens.

Mr. DEUTSCH. I said Africa.

Mr. TAUZIN. Africa?

Mr. DEUTSCH. Africa.

Mr. TAUZIN. To Africa, to many countries in Africa. They have fiberoptic services to many countries that compete with the satellite services.

Mr. DEUTSCH. As my colleague knows, again my understanding is that on thin routes to Africa they are not classified as nondominant.

Mr. OXLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, while I appreciate the rationale behind the ''fresh look'' provisions of this bill and I agree that the privatization we seek must be pro-competitive, it is my view that the abrogation of private contracts called for by this bill is simply not justified by the

admittedly worthy goal of accelerating the transition to a more competitive marketplace. It is not appropriate in my opinion for this Congress to allow corporations to simply walk away from legal contracts because we believe that there may have been better deals for them in the offing. With privatization the transition to a competitive market will come soon enough, and these contracts will expire and be renegotiated in the normal course of business without the kind of congressional interference in the process.

My sense is that we should go very, very slowly when Congress is dealing with the issue of abrogating contracts. This is a very serious issue. Those of us who studied contracts in law school learned, probably on the first day, that contracts have a particularly meaningful role in our business world and that those contracts and particularly the breaking of those contracts should be taken very, very seriously and with a great deal of caution, particularly by the national legislative body, the Congress of the United States.

We should allow the marketplace to work its will in due course without resorting to heavy-handed tactics. After all, the bill is premised on the idea that competition will cause market participants to realize new efficiencies and alternate ways of doing business. The incentives are already there for telecommunication firms to seek out the most efficient access to international communications. And while it may be tempting, Mr. Chairman, to try to jump start the competitive process through these ''fresh look'' measures, I think we are getting a little ahead of ourselves. We should allow the private sector to work its will and without abrogating the privacy of these contracts.

Mr. Chairman, we can argue as to whether or not free agency has ruined baseball, but the truth is that telecommunication companies today are already free agents without ''fresh look.''

I encourage support for the amendment to remove these provisions.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I just wanted to congratulate the vice chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection for his excellent statement just now, not only in support of the motion that will not abrogate contract rights, indeed that is something we learned in law school, but to point out that the opinion of the Washington Legal Foundation went on to say that if we did that in this bill, that would amount to the most sweeping congressional abrogation of private contract rights of a single company without any judicial determination of wrongdoing.

That is unprecedented in U.S. history. Not only are we doing something that I think we learned is wrong in law school, but Congress would be doing something, according to this report, that is unprecedented in terms of its sweep, in terms of how many contracts we would abrogate and declare illegal when the courts have upheld those contracts up until this date.

I want to thank the vice chairman for his excellent statement and encourage him in support of this amendment.

Mr. OXLEY. Mr. Chairman, I thank the gentleman from Louisiana for his comments and would simply point out that in this kind of area, we ought to walk very, very softly before we consider these kinds of abrogation of contracts. This is very serious business, and I would caution that, in fact, the marketplace is working, that those telecommunication companies out there will be able to renegotiate, will be able to sign new contracts in the due course of business. We ought not to interfere with that right of contract. It would be a serious mistake on the part of this Congress.

Mr. HASTERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as my colleagues know, one of the things, I just recently came back from a trip to Chile.

Now we think Chile is a Third World nation stuck down the end of the Western Hemisphere. Mr. Chairman, one of the interesting things was we went to make a phone call in Chile. If we wanted to call the United States, we could call the United States cheaper from Chile then we could from the United States back to Chile.

Now we always thought we had the best competition, the best system, the best service and the cheapest rates. If we wanted to call Japan from Chile, we have the best rates from Chile to Japan instead of Japan to Chile. If we wanted to call Argentina, which is right across the mountains maybe 45 miles away from Santiago into Argentina, rates were cheaper if we called from Chile into Argentina. Why? Because there are eight telephone companies, all with individual contracts. If we sign up for one phone company and somebody got a better price, we can arbitrate that contract and we can get with the next company. Why? Because they have the ability to hook up with those satellites, there is competition up there, and they go for the best price.

Now we may want to protect some entities that made contracts before this system changed, but the system has changed. Competition is there. The world is opening up. And all we are saying is those companies that were tied into the old contracts under the old system before the universe changed, let them step back, let them take a fresh look, let them renegotiate, and let consumers win, because when we come down to it, ''fresh look'' is a simple concept.

I say let consumers, that is right, consumers, negotiate their contracts with COMSAT once competition is permitted. It is a commonsense system, it is a situation that we ought to reject this amendment and stay with the good work of the chairman of the committee.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I want to correct a statement the gentleman from Michigan in his previous statement said, that we had no hearings on ''fresh look.'' We had a hearing on September 30, 1997, in the Subcommittee on Telecommunications Trade, and Consumer Protection, and indeed Mr. Jack Gleason from NTIA testified for the administration, testified in favor of ''fresh look.''

Now let us talk about ''fresh look.'' ''Fresh look'' gives a customer the choice to renegotiate that contract once they have alternative providers to choose from. Now sure, AT&T has a cable, Sprint has a cable, MCI has a cable, but they have to sign up with COMSAT to get to INTELSAT because of redundancy. If anything happens to their cable, they have to have a backup, and the FCC has used ''fresh look'' on several occasions, most recently when implementing the Telecommunication Act of 1996, and no one ever thought of taking suit against them when they did.

We had ''fresh look'' occurring annually in one version of this bill, but to accommodate the concerns of the gentleman from Louisiana (Mr. TAUZIN) we revised the ''fresh look'' provision to tie it to the date of direct access. Direct access means allowing, for the first time, competition for access to INTELSAT and Inmarsat in the U.S., and if there is not the opportunity to take advantage of it, direct access does not mean much. ''Fresh look'' will allow customers locked into those long-term take-or-pay contracts, when they had no choice if they wanted to play in the game but to sign those contracts, the advantage of new competitors. And COMSAT will have the opportunity to renegotiate with them, and I suspect that will keep most of them.

It is the job of elected representatives, not the FCC, to make sure that this happens. Moreover, the FCC may decide it is not worth fighting COMSAT in court, and since COMSAT sues at the drop of a hat, they may be able to fend it off. It is up to the FCC to implement it, but we need to tell them to do so.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Louisiana and really congratulate him because, as my colleagues know, together with the chairman and this gentleman, he brought an important issue before us, something that needs to be moved forward and talked, and I think we have to do it with a balance, and I would be happy to hear what the gentleman has to say.

Mr. TAUZIN. Mr. Chairman, I wanted to point out the gentleman from Michigan merely said that we did not have

hearings on these contracts that we are abrogating, not on the issue of ''fresh look''; and secondly, to point out when the administration did testify on ''fresh look,'' here is what they said.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HASTERT) has expired.

(On request of Mr. TAUZIN, and by unanimous consent, Mr. HASTERT was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, here is what the administration said. It said that even if a fresh look at INTELSAT and Inmarsat services, ordered hypothetically, were to allow the signatures and direct users to get a better deal, it is unlikely that consumers would benefit; and they said for the same reason that competition already exists at ''fresh look'' at INTELSAT and Inmarsat contracts, in those countries, is unlikely to benefit consumers significantly. It seems to me they were testifying against the use of ''fresh look,'' not for it.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is a very important amendment. We have to understand that the whole field of telecommunications has been revolutionized since the early 1980s. We all operated in the United States and around the globe under the presumption that a monopoly was natural, that there was only one place we could go for everything that we expect as services in the telecommunications field. All of that has changed since the early 1980s.

For example, in 1982 when AT&T was broken up, it was the largest company not only in the United States but in the world. We had one telephone company. There was no Bell South, there was no NYNEX. MCI and Sprint were tiny little companies. No U.S. West, no Southwestern Bell; it did not exist. We had one company, one-stop shopping. We all thought it was a natural monopoly.

When the Justice Department broke it up even as Congress was beginning to move to break it up, we said to every customer in America, part of that consent decree, we can choose another long distance telephone company if we want, we can have a fresh look. We do not have to be tied into any long-term contracts we had with AT&T. We are starting a new world, one in which we are encouraging competition in the marketplace.

Now this phenomenon manifests itself over and over again as we break down these monopolies. It happens in all kinds of service areas. And the FCC has taken the precaution where necessary in other areas in order to accomplish this goal. For example, when the FCC in 1992 ordered expanded interconnection rules and allowed local telephone competitors greater ability to compete for special access services, the FCC allowed customers who typically had signed contracts for 6, 7, 8 or more years the opportunity to renegotiate their terms or switch to new competitors in the marketplace without termination penalties, because there was now competition in this marketplace. And maybe something that is even more familiar or typical in ordinary American life; that is, when people dial 1–800 The Card for American Express or 1–800 Flowers, and a customer has ever dealt with them over the years, they might have said, well, that is a good service; but what if I switch from AT&T over to MCI? Well, what we said through the FCC was they could take their number with them. There was portability. They were not going to be locked into AT&T. We had to create some means by which the newer companies could compete against the old monopoly.

Now that is really intended to open up opportunities for dozens, for hundreds of new companies to get in and to compete, to break down the old models. We are not the Soviet Union, we are not Japan, we are not Germany. We wanted to be number one, and we wanted dozens, hundreds of companies out into these fields.

□ 1445

That is what is making us special in the world right now.

As a matter of fact, if we look back at the 1980s, after the tearing down of the Berlin Wall, the breakup of AT&T might be looked back at historically as maybe the greatest and most important decision that was made in our country, because we were opening up opportunities for customers to have different choices and for more competitors to get into the marketplace. And the core, central part of looking at this ''fresh look'' issue is that because COMSAT has been a monopoly, that when the monopoly goes away, the customers should be freed up to look for better opportunities, once. Take their one-time-only opportunity to look around, shop around.

However, here is what we know: that because competitors to COMSAT have never had direct access to INTELSAT, according to the Federal Communications Commission, there has been a 68 percent markup in the price charged by INTELSAT, 68 percent. Now, when direct access is allowed, should not these customers who have been locked into the old monopoly have the freedom of going out and getting the best deal in the marketplace? Do we not want every company in the United States to have the lowest possible cost in all of their telecommunications services, so whatever they do inside of their company is much more competitive as they sell their product around the world.

That is what this is all about, after all, lower energy prices, lower electricity prices, lower telecommunications prices; it is the cost of hundreds of thousands of companies in America in terms of the product they are trying to make. We are trying to lower the cost here.

Give them a fresh look, let them go out. If NBC or CNN or any other company in the America that buys their telecommunications services wholesale who wants to get a fresh look, why should they not be allowed to get the benefit of this policy?

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. MARKEY) has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. MARKEY. Mr. Chairman, this is a one-time-only, free-agency ability.

Mr. Chairman, for many years, major league baseball did not allow players to go out and contract with other clubs. Players were locked in. They might have signed a contract with the team they were with, like the Red Sox or the Yankees, in the 1930s and 1940s, the 1950s or the 1960s, but they were tied to them. A player could not sign with another team. But when free agency came around, you were free to look around; then a player signed a new contract and was bound to that contract.

We have to have one-time-only free agency for all of these companies in America that have been tied into the monopoly. Then we can say to the rest of the world, tear down those barriers to the entry of American companies into free competition across the globe. This is the other wall that has been up to Americans going across the globe. The Berlin Wall came down; so too must these telecommunications barriers, because that is the area where America has to be number one if we are going to get the benefits of the post-Cold War era.

Mr. STEARNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, not withstanding all of the grand rhetoric that my colleague, the gentleman from Massachusetts (Mr. MARKEY), just gave us, this issue comes down to perhaps two major points.

Do we believe that COMSAT is today monopolizing the industry? Mr. Chairman, I want to include for the RECORD the FCC ruling of April 24, 1998 that says, ''The commission declares COMSAT nondominant in competitive markets.'' The commission says, it ''granted the request of COMSAT Corporation for a reclassification as a nondominant carrier in five product markets, which account for 85 percent of COMSAT's INTELSAT revenues.''

Now, will my colleague from Massachusetts agree that what is being done here is the equivalent of Congress going back and looking at Microsoft and saying, oh, Microsoft, you are a monopoly, and then mandating that any contract that Microsoft would sign would be open to renegotiation. I do not think Members of the Congress would agree to do that. I believe no United States court would allow the abrogation of Microsoft's private contracts, and I believe the U.S. courts will not let stand the abrogation of COMSAT's private contracts.

We took an oath. When we came into Congress, we took an oath to abide by the Constitution. We are talking about the fifth amendment here.

I can show my colleagues example after example where COMSAT is not the monopoly that my good friend from Massachusetts portrays it to be. But let me say in all deference now to the chairman, I am on his bill, his original bill. I think he is making a courageous stand to deregulate an industry that should have been deregulated some time ago. But notwithstanding that, this bill can be improved by the Tauzin amendment, and that is why I stand in support of it.

Mr. Chairman, I include for the RECORD the FCC ruling of April 24, 1998:

COMMISSION DECLARES COMSAT NON-DOMINANT IN COMPETITIVE MARKETS

The Commission has granted the request of Comsat Corporation for reclassification as a non-dominant common carrier in five product markets, which account for approximately 85% of Comsat's INTELSAT revenues. Specifically, the Commission found Comsat non-dominant in the provision of INTELSAT switched voice, private line, and occasional-use video services to markets that it determined to be competitive. It also found Comsat non-dominant in the provision of full-time video and earth station services in all markets. In the markets where Comsat has been reclassified as non-dominant, Comsat will be allowed to file tariffs on one day's notice, without economic cost support, in the same form as filed by other non-dominant common carriers, and the tariffs will be presumed lawful. By virtue of finding Comsat non-dominant in these markets, the Commission is eliminating rate of return regulation in these markets.

The Commission also indicated it expeditiously would initiate a proceeding to explore the legal, economic and policy implications of enabling users to have direct access to the INTELSAT system. Approximately 94 other countries permit direct access to the INTELSAT system.

The Commission denied Comsat's non-dominant reclassification request with respect to switched voice, private line and occasional-use video services to non-competitive markets where it found that Comsat remains dominant. It also denied Comsat's request that the Commission forbear under Section 10 of the Communications Act from enforcing the Commission's dominant common carrier tariff rules in non-competitive markets. The Commission considered but rejected Comsat's three-year ''price cap'' and ''uniform pricing'' proposals for these markets, and found that Comsat did not satisfy the statutory requirements for forbearance relief under the circumstances. The Commission indicated, however, that it would favorably consider in its analysis of any forbearance request a commitment by Comsat to (a) allow U.S. carriers and users to obtain Level-3 direct access to the INTELSAT system and (b) make an appropriate waiver of its INTELSAT derived immunity from suit and legal process. Such actions would promote competitive market conditions in the INTELSAT markets in which Comsat remains dominant.

The Commission also indicated that it will consider replacing rate of return regulation for Comsat's dominant markets with an alternative form of incentive-based regulation and, as part of its reclassification decision, the Commission issued a Notice of Proposed Rulemaking seeking public comment on its tentative conclusions that any alternative incentive-based regulation plan to be adopted should (a) enable users on non-competitive routes to benefit from competitive rates; (b) remain in effect indefinitely; and (c) allow users to benefit from reduced rates due to increases in efficiency and productivity. Comsat will be subject to alternative incentive-based regulation once such regulation is adopted in this proceeding.

Finally, the Commission found that Comsat's continued dominance in the provision of switched voice, private line and occasional-use video services to non-competitive markets was an insufficient basis for continuing to require structural separation between Comsat's INTELSAT services and other activities. It concluded that the costs of imposing such a requirement would exceed any potential benefits to competition. The Commission granted Comsat's request for the elimination of structural separation for its INTELSAT services because structural separation is no longer necessary to safeguard Comsat's competitors from Comsat leveraging its monopoly jurisdictional services to gain an advantage in competitive markets in which it is operating.

The 63 countries in which Comsat will continue to be considered dominant for switched voice and private line services are: Algeria, American Samoa, Angola, Armenia, Azerbaijan, Benin, Bolivia, Bosnia & Herzegovina, Botswana, Burkina, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Cote d'Ivoire, Estonia, Ethiopia, French Polynesia, Gabon, Ghana, Guinea, Iran, Iraq, Jordan, Kenya, Lesotho, Libya, Lithuania, Malawi, Mali, Maritime-Atlantic, Maritime-Pacific, Mauritania, Mauritius, Federated States of Micronesia, Midway Atoll, Moldova, Mozambique, Namibia, Nauru, New Caledonia, Nicaragua, Niger, Northern Mariana Islands, Pacific Islands (Palau), Paraguay, Rwanda, Saint Helena, Senegal, Sierra Leone, Somalia, Sudan, Suriname, Swaziland, Tanzania, Togo, Tonga, Turks and Caicos Islands, Uganda, Western Samoa, Zaire, and Zambia.

The 142 countries in which Comsat will continue to be considered dominant for occasional-use video service are:

South America: Columbia, Grench Guiana, Guyana, Paraguay, Suriname, and Trinidad & Tobago.

Central America/Caribbean: Anguilla, Antigua, Aruba, Bahamas, Belize, Bermuda, British Virgin Islands, Cayman Islands, and Chagos Archipelago, Costa Rica, Dominica, Dominican Republic, El Salvador, Gibraltar, Grenada, Guadeloupe, Guatemala, Haiti, Honduras, Martinique, Montserrat, Netherlands Antilles, Panama, Saint Kitts & Nevis, Saint Lucia, Saint Vincent, and Turks & Caicos.

Western Europe: Cyprus, Greenland, Iceland, Malta, and Norway.

Eastern Europe: Albania, Belarus, Bulgaria, Czech Republic, Estonia, Lithuania, Macedonia, Moldova, Russia, Serbia, and Slovenia.

Middle East: Bahrain, Iran, Israel, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Yemen.

Africa: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Dem Rep Congo, Djibouti, Egypt, Eq. Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Saint Helena, Sao Tome, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zaire, Zambia, and Zimbabwe.

Central Asia: Afghanistan, Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgystan, Mongola, Myanmar, Tajikistan, Turkmenistan, and Uzbekistan.

South Asia: Bangladesh, India, Maldives, Nepal, Pakistan, and Sri Lanka.

Far East: Brunei, Cambodia, Laos, Malaysia, North Korea, South Korea, Thailand, and Vietnam.

Pacific Rim: American Samoa, Fiji, French Polynesia, Macau, Marshall Islands, Micronesia, Midway Islands, Nauru, New Caledonia, New Zealand, Palau, Papua New Guinea, Tonga, Vanatu, and Western Samoa.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank my friend for yielding and I thank him for his comments.

Mr. Chairman, let me say too, this is not about whether we want to break up the old monopoly of INTELSAT and Inmarsat, these multination, governmentally owned cartels. This is not about that. We all agree that that ought to happen. This is not about that.

This is simply about whether we in Congress are going to order the abrogation of contracts to an American company that have been tested in court and found to be voluntarily entered into when the people who entered those contracts had other options.

There are several questions we ought to ask: Did they have other options? The answer is yes. The court found in summary judgment, they could have signed with PanAmSat, they could have signed with Loral, Teledesic, Columbia, Meridian, ELLIPSO. They could have signed with many cable companies that offer fiberoptic cable across the Atlantic. They chose to sign with COMSAT voluntarily.

The second question that we should answer is, is, in fact, the ''fresh look'' applicable to these contracts? The answer is yes, it is already the law. Anybody can go test them in court.

The third question we should answer is, once they have been tested in court and found to be valid, voluntary contracts, should we in Congress substitute our judgments for the court's without a hearing on these contracts even, and declare that they can be abrogated? I suggest the gentleman put his finger on it.

We took an oath. If there is something that makes us special, I say to the gentleman from Massachusetts, it is that we took an oath to live by a Constitution that sets the rules for all of us, and the rules are that when one signs a contract voluntarily, one has other options, one was not coerced, then that person ought to live by that contract. It is called honor. And we in Congress ought to have enough honor to let the contracts signed in America be honored by the parties who signed them and not abrogate those contracts by congressional fiat. That is what this is all about, our oath under the Constitution, and the honor of the contracts and the parties who signed them, voluntarily, tested in court, proven in court to be voluntary, whether or not those contracts will be honored.

This is a good bill, but this amendment improves a good bill by taking out a feature that I think is horrible, and my colleagues ought to think is horrible. No Member in Congress ought to go down to this floor today and vote to abrogate private contracts that have already been tested in court and proven to be honest and honorable and voluntary, and if my colleagues vote to abrogate contracts, I suggest that my colleagues have violated their oath to uphold the Constitution.

Mr. STEARNS. Mr. Chairman, let me conclude by saying, I think if we listen to this debate, we will realize that COMSAT faces significant competition, competition from underseas fiberoptic lines for voice, video and data service. In fact, many argue that fiberoptic lines are a more productive infrastructure than satellites because of their reliability and because of their greater capacity.

So after making these points, I think the Members have to decide if they think COMSAT is a monopoly, that is fine, but many of us have researched this and we do not think COMSAT is a monopoly any longer, and so that is why I support the Tauzin amendment.

Mr. KLINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise really in support of the Tauzin amendment. If we go back to 1984, at that point the marketplace opened up. If we wanted to go pre-1984 and say we really need to take a fresh look, then perhaps this bill, as written, would make some sense.

But the point is that in 1984, competition was arrived at. Other satellites were out there, there were other opportunities. So the concept of ''fresh look'' may make sense in some situations, but it does not make sense in 1998 in this instance.

The idea that COMSAT should now be forced to renegotiate its contracts might make sense if COMSAT were a true monopoly, but as some have spoken before today, and I would like to add to it, they are not a monopoly. In fact, the FCC has declared COMSAT is a nondominant carrier in 85 percent of the business they do. Furthermore, there are a lot of competitors to INTELSAT satellites. COMSAT now carries 21 percent of the voice traffic. That is down from 70 percent just a few years ago, and it does not qualify as a monopoly. In video, COMSAT has only 42 percent of the market share. Again, hardly monopolistic when, a few years ago, they had almost 90 percent of the video marketplace.

In addition, if we were to require COMSAT to reopen all of its contracts, contracts that were legally negotiated in good faith, remember, we are then opening the Federal Government up to what I think are substantial damages. Now, do we want to send this bill before the taxpayers in our districts? Do we want to make them liable for the decision that we make here today? We should not try to privatize an international body, we should not try to privatize a communications industry in other countries by holding a gun to the head of an American company, a company that negotiated these contracts, that made business decisions based on requests of this Federal Government.

We asked them to do this. Imposing harsh sanctions on a U.S. company in order to get other countries to do what we want them to do does not make any sense at all.

I would go back to my comments a little earlier today about Cleavon Little holding a gun to himself in the movie ''Blazing Saddles.'' That is what we are doing. We are holding a gun to the head of an American company and telling the rest of the world, if you do not do what we want you to do, we are going to pull the trigger.

''Fresh look'' is a harsh sanction on a U.S. company. I say that we should support the Tauzin amendment and strike ''fresh look'' from this bill.

The CHAIRMAN (Mr. SNOWBARGER). The question is on the amendment offered by the gentleman from Louisiana (Mr. TAUZIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TAUZIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 80, noes 339, answered ''present'' 2, not voting 11, as follows:

[Roll No. 128]

AYES—80

Baker
Barcia
Barrett (NE)
Bartlett
Berry
Bilirakis
Boehner
Bonior
Boucher
Brady
Brown (OH)
Cannon
Chambliss
Clyburn
Collins
Condit
Conyers
Crapo
Cubin
Cummings
Davis (IL)
DeLay
Dingell
Doolittle
Doyle
Emerson
Ford
Furse
Gekas
Gilchrest
Hall (TX)
Hamilton
Hansen
Horn
Hoyer
John
Johnson, E. B.
Johnson, Sam
Jones
Klink
Kucinich
Lazio
Levin
Linder
Livingston
Martinez
Mascara
McCrery
McInnis
Meeks (NY)
Menendez
Mink
Morella
Nussle
Obey
Oxley
Pascrell
Peterson (MN)
Petri
Pombo
Redmond
Rivers
Rush
Sabo
Sandlin
Schaefer, Dan
Sensenbrenner
Sessions
Smith (MI)
Smith, Linda
Snowbarger
Stearns
Tauzin
Thompson
Towns
Traficant
Upton
Watt (NC)
Wynn
Young (AK)

NOES—339

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barr
Barrett (WI)
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Castle
Chabot
Chenoweth
Clay
Clayton
Clement
Coble
Coburn
Combest
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Oberstar
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sanders
Sanford
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Turner
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (FL)

ANSWERED ''PRESENT''—2

Cardin Sawyer

NOT VOTING—11

Bateman Gonzalez Radanovich
Carson Hastings (FL) Riggs
Christensen McNulty Skaggs
Fossella Neumann

☐ 1518

Messrs. CLAY, SPRATT, GALLEGLY, WATKINS and STOKES, and Mrs. CLAYTON and Mrs. MYRICK changed their vote from ''aye'' to ''no.''

Mr. YOUNG of Alaska changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RIGGS. Mr. Chairman, on Rollcall No.'s 127 and 128 I was unavoidably detained on other congressional business and unable to be present to vote. Had I been present, I would have voted "no" on both rollcall votes.

Mr. BLILEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the Members for the debate. I want to thank the Members for their support of the bill. I particularly want to thank the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Louisiana (Mr. TAUZIN), and the others who took part in the debate.

I would also especially like to thank my satellite team who labored very hard to open up the schools: Patricia Paoletta, Michael O'Reilly, Cliff Riccio, and Ed Hearst.

The CHAIRMAN. Are there other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. EWING) having resumed the chair, Mr. SNOWBARGER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes, pursuant to House Resolution 419, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 16, answered ''present'' 2, not voting 11, as follows:

[Roll No. 129]

AYES—403

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)

NOES—16

Berry
Conyers
Dingell
Hamilton
Hoyer
John
Klink
Kucinich
Martinez
Menendez
Morella
Oberstar
Pascrell
Peterson (MN)
Taylor (MS)
Wynn

ANSWERED ''PRESENT''—2

Cardin Sawyer

NOT VOTING—11

Bateman Fossella Neumann
Carson Gonzalez Radanovich
Chenoweth Hastings (FL) Skaggs
Christensen McNulty

☐ 1542

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1872, the bill just passed.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROPOSED AGREEMENT FOR COOPERATION BETWEEN UNITED STATES AND UKRAINE CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. No. 105–248)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation Between the United States of America and Ukraine Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with Ukraine has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Ukraine under appropriate conditions and controls reflecting our common commitment to nuclear nonproliferation goals.

The proposed new agreement with Ukraine permits the transfer of technology, material, equipment (including reactors), and components for nuclear research, and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components of such facilities. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

Ukraine is a nonnuclear weapon state party to the Treaty on the nonproliferation of Nuclear Weapons (NPT). Following the dissolution of the Soviet Union, Ukraine agreed to the removal of all nuclear weapons from its territory. It has a full-scope safeguards agreement in force with the International Atomic Energy Agency (IAEA) to implement its safeguards obligations under the NPT. Ukraine was accepted as a member of the Nuclear Suppliers Group in April 1996, and as a member of the NPT Exporters Committee (Zangger Committee) in May 1997.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session provided for in section 123d. shall commence.

WILLIAM J. CLINTON,

THE WHITE HOUSE, *May 6, 1998.*

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3694, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–511) on the resolution (H. Res. 420) providing for consideration of the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HIGHER EDUCATION AMENDMENTS OF 1998

The SPEAKER pro tempore (Mr. EWING). Pursuant to House Resolution 411 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

□ 1545

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for further consideration of the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, with Mr. EWING (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Tuesday, May 5, 1998, title VII was open for amendment at any point.

LIMITING DEBATE ON AMENDMENT NO. 75 AND ALL AMENDMENTS THERETO

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that debate on the amendment numbered 75, and all amendments thereto, be limited to 1 hour, equally divided and controlled by Representative HASTERT of Illinois or his designee and Representative ROEMER of Indiana or his designee.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—ADDITIONAL PROVISIONS

SEC. 801. STUDY OF TRANSFER OF CREDITS.

(a) STUDY REQUIRED.—The Secretary of Education shall conduct a study to evaluate policies or practices instituted by recognized accrediting agencies or associations regarding the treatment of the transfer of credits from one institution of higher education to another, giving particular attention to—

(1) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by different agencies or associations and the reasons for such policies;

(2) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by national agencies or associations and institutions of higher education which are accredited by regional agencies and associations and the reasons for such policies;

(3) the effect of the adoption of such policies on students transferring between such institutions of higher education, including time required to matriculate, increases to the student of tuition and fees paid, and increases to the student with regard to student loan burden;

(4) the extent to which Federal financial aid is awarded to such students for the duplication of coursework already completed at another institution; and

(5) the aggregate cost to the Federal Government of the adoption of such policies.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Chairman and Ranking Minority Member of the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate detailing his findings regarding the study conducted under subsection (a). The Secretary's report shall include such recommendation with respect to the recognition of accrediting agencies or associations as the Secretary deems advisable.

SEC. 802. STUDY OF MARKET MECHANISMS IN FEDERAL STUDENT LOAN PROGRAMS.

(a) STUDY REQUIRED.—The Comptroller General, in consultation with interested parties,

shall conduct a study of the potential to use auctions or other market mechanisms in the delivery of Federal student loans in order to reduce costs both to the Federal Government and to borrowers. Such study shall include an examination of—

(1) the feasibility of using an auction of lending authority for Federal student loans, and the appropriate Federal role in the operation of such an auction or other alternative market mechanisms;

(2) methods for operating such a system to ensure loan access for all eligible borrowers, while maximizing the cost-effectiveness (for the Government and borrowers) in the delivery of such loans;

(3) the impact of such mechanisms on student loan availability;

(4) any necessary transition procedures for implementing such mechanisms;

(5) the costs or savings likely to be attained for the Government and borrowers;

(6) the feasibility of incorporating income-contingent repayment options into the student loan system and requiring borrowers to repay through income tax withholding, and the impact of such an option on the willingness of lenders to participate in auctions or other market mechanisms and on the efficiency of Federal management of student loan programs;

(7) the ability of the Department of the Treasury to effectively auction the right to make student loans; and

(8) other relevant issues.

(b) RECOMMENDATIONS.—Within 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the study required by subsection (a) and shall include with such report any legislative recommendations the Comptroller General considers appropriate.

SEC. 803. IMPROVEMENTS IN MARKET INFORMATION AND PUBLIC ACCOUNTABILITY IN HIGHER EDUCATION.

(a) IMPROVED DATA COLLECTION.—

(1) DEVELOPMENT OF UNIFORM METHODOLOGY.—The Secretary shall direct the Commissioner of Education Statistics to convene a series of forums to develop nationally consistent methodologies for reporting costs incurred by postsecondary institutions in providing postsecondary education.

(2) SEPARATION OF UNDERGRADUATE AND GRADUATE COSTS.—Such consistent methodologies shall permit the Secretary to collect and disseminate separate data with respect to the costs incurred in providing undergraduate and graduate postsecondary education.

(3) REDESIGN OF DATA SYSTEMS.—On the basis of the methodologies developed pursuant to paragraph (1), the Secretary shall redesign relevant parts of the postsecondary education data systems to improve the usefulness and timeliness of the data collected by such systems.

(b) DATA DISSEMINATION.—The Secretary shall publish, in both printed and electronic form, of the data collected pursuant to subsection (a). Such data shall be available in a form that permits the review and comparison of the data submissions of individual institutions of higher education. Such data shall be presented in a form that is easily understandable and allows parents and students to make informed decisions based on the following costs for typical full-time undergraduate or graduate students—

(1) tuition charges published by the institution;

(2) the institution's cost of educating students on a full-time equivalent basis;

(3) the general subsidy on a full-time equivalent basis;

(4) instructional cost by level of instruction;

(5) the total price of attendance; and

(6) the average amount of per student financial aid received, including and excluding assistance in the form of loans.

SEC. 804. DIFFERENTIAL REGULATION.

(a) GAO STUDY.—The Comptroller General shall conduct a study of the extent to which unnecessary costs are imposed on postsecondary education as a consequence of the applicability to postsecondary facilities and equipment of regulations prescribed for purposes of regulating industrial and commercial enterprises.

(b) REPORT REQUIRED.—Within one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress on the results of the study required by subsection (a).

SEC. 805. ANNUAL REPORT ON COST OF HIGHER EDUCATION.

(a) GAO REPORT REQUIRED.—The Comptroller General shall conduct an on-going analysis of the following:

(1) The increase in tuition compared with other commodities and services.

(2) Trends in college and university administrative costs, including administrative staffing, ratio of administrative staff to instructors, ratio of administrative staff to students, remuneration of administrative staff, and remuneration of college and university presidents or chancellors.

(3) Trends in (A) faculty workload and remuneration (including the use of adjunct faculty), (B) faculty-to-student ratios, (C) number of hours spent in the classroom by faculty, and (D) tenure practices, and the impact of such trends on tuition.

(4) Trends in (A) the construction and renovation of academic and other collegiate facilities, and (B) the modernization of facilities to access and utilize new technologies, and the impact of such trends on tuition.

(5) The extent to which increases in institutional financial aid and tuition discounting have affected tuition increases, including the demographics of students receiving such aid, the extent to which such aid is provided to students with limited need in order to attract such students to particular institutions or major fields of study, and the extent to which Federal financial aid, including loan aid, has been used to offset such increases.

(6) The extent to which Federal, State, and local laws, regulations, or other mandates contribute to increasing tuition, and recommendations on reducing those mandates.

(7) The establishment of a mechanism for a more timely and widespread distribution of data on tuition trends and other costs of operating colleges and universities.

(8) The extent to which student financial aid programs have contributed to changes in tuition.

(9) Trends in State fiscal policies that have affected college costs.

(10) Other related topics determined to be appropriate by the Comptroller General.

(b) ANNUAL REPORT TO CONGRESS.—The Comptroller General shall submit to the Congress an annual report on the results of the analysis required by subsection (a).

SEC. 806. REPEALS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.

(a) HIGHER EDUCATION AMENDMENTS OF 1986.—Title XIII of the Higher Education Amendments of 1986 (20 U.S.C. 1091 note, 1121 note, 1221e–1 note, 1011 note, 1070a note, 1071 note, 1221–1 note, 1091 note) is repealed.

(b) HIGHER EDUCATION AMENDMENTS OF 1992.—

(1) TITLE XIV.—Title XIV of the Higher Education Amendments of 1992 (20 U.S.C. 1071 note, 1080 note, 1221e note, 1070 note, 1221e–1 note, 1070a–21 note, 1134 note, 1132a note, 1221–1 note, 1101 note) is repealed.

(2) TITLE XV.—Parts A, B, C, D, and E of title XV of the Higher Education Amendments of 1992 (29 U.S.C. 2401 et seq., 20 U.S.C. 1452 note, 1101 note, 1145h, 1070 note) are repealed.

SEC. 807. LIMITATION.

None of the funds appropriated under the Higher Education Act of 1965 or any other Act shall be made available by any Federal agency to the National Board for Professional Teaching Standards.

AMENDMENT NO. 70 OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 70 offered by Mr. MILLER of California:

Page 334, after line 19, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 806. EDUCATIONAL MERCHANDISE LICENSING CODES OF CONDUCT.

It is the sense of the Congress that all American colleges and universities should adopt rigorous educational merchandise licensing codes of conduct to assure that university and college licensed merchandise is not made by sweatshop and exploited adult or child labor either domestically or abroad and that such codes should include at least the following:

(1) public reporting of the code and the companies adhering to it;

(2) independent monitoring of the companies adhering to the code by entities not limited to major international accounting firms;

(3) an explicit prohibition on the use of child labor;

(4) an explicit requirement that companies pay workers at least the governing minimum wage and applicable overtime;

(5) an explicit requirement that companies allow workers the right to organize without retribution; and

(6) an explicit requirement that companies maintain a safe and healthy workplace.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Chairman, today all across America, consumers are taking a closer look at how products that they buy are made. There are some things consumers have always wanted to know: How much does it cost? Where is it made? What is it made of? And was it made with union labor? Was it made with recycled products?

For many years, there have been labels on these products to provide consumers this information. Today, however, on the heels of a number of embarrassing incidents involving high-profile personalities and well-known companies, consumers want to know more about the products they buy. They want to know under what conditions were these products made. They want to know, for example, whether the T-shirts, the baseball caps, the sweatpants, and the soccer balls they buy for themselves and for their children were made by children. They want to know if the products they are buying with their hard-earned money were made by workers who were exploited in sweatshops or by child labor. There are no labels to tell consumers that kind of information.

Until there is a better way to inform consumers about labor practices, about the methods of production, we think that one of the best ways to do this is for purchasers of these items to engage in voluntary codes of conduct, codes of

conduct that are backed up by independent monitoring.

We now have some of these voluntary codes of conduct with members of the apparel industry. Some of the big names in the apparel industry, the designer labels, have agreed to voluntary codes of conduct to monitor under what conditions their garments are made, how they are made, who made them, and whether or not it is exploited labor.

What we now see on our university and college campuses is that many goods are sold on college campuses in the bookstores, sports memorabilia, college educational memorabilia items, such as this, a baseball cap. A simple baseball cap that might be sold on the university campus, it turns out that it is made in a sweatshop. It is made by exploited labor. In some cases it is made by child labor.

Some universities, when they have learned this information, have immediately taken the items off of their shelves. They refuse to sell them. Cornell University just did this. Other universities have said, if we had known that, we would never have purchased them. Duke University and Brown University have just entered into voluntary codes of conduct for the purchasing of these materials.

Duke University and Brown University sell a lot of this memorabilia. Alumni go there, the students go there, they buy it for gifts for their brothers and sisters. They have no way of knowing it was made with exploited labor or made with child labor. So now they have a voluntary code of conduct to protect the purchasers, to protect their student body from this kind of condition.

The code stipulates that the companies must certify, if they are going to sell to these universities, that this is not made with child labor, that this is not made in sweatshops, that the minimum wage in the area was paid. Different universities have different approaches, but it is to try to raise the awareness and to make sure that the university could protect its consumers.

This is a market that is over $2 billion. Over $2 billion of these sweatshirts and sweatpants and T-shirts and baseball caps and other paraphernalia are purchased. Some universities sell a huge amount of this, Harvard University, Duke University, University of Southern California, Notre Dame, and others. Duke University estimates that it sells about $20 million of this licensed merchandise. Cornell says it receives about $15,000 in royalties.

What my amendment does is express the sense of Congress to encourage the adoption of these voluntary codes of conduct by colleges and universities governing the merchandise that they license for manufacture. By passing this measure, Congress will lend a helping hand to a growing private sector movement to restore a sense of integrity and decency to our marketplace.

As one indication of the growing importance of this issue, the Association of Collegiate Licensing Administrators will convene their annual meeting later this month, and this topic of discussion is on their agenda to discuss such codes as were adopted by Duke University and Brown.

In addition, the Collegiate Licensing Company, which represents 160 schools, including Cornell, is in the process of writing a code of conduct for its clients. When we asked Duke, which had adopted its code in March, ''Why did you do so?'' they said for two reasons: One, on moral grounds, it was absolutely the right thing to do; and it was also smart economically.

The universities have come to recognize, as pointed out both again by people at Duke and by the provost of Harvard University, that the university has to protect the integrity of its name. If its name is associated with sweatshop merchandise, if its name is associated with child labor, exploited labor, it cheapens the name and integrity of the university.

So they have a reason to do this, and yet, these very same universities in a recent report found that a company named BJ&B is running sweatshops in the Dominican Republic making baseball caps for leading American universities, Harvard, Cornell, Notre Dame, Georgetown, Duke, and others and they did not know it. So now they are moving in this direction.

I would hope that the Congress would support this effort with this sense of Congress resolution for these voluntary codes of conduct. These are baseball caps that sell for about $20, for about $20. The university gets about $1.50 in royalty and licensing fee. The worker gets 7 cents. So, obviously, there is improvement that can be made here in terms of compensating the people who are making these products.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Many of these workers work up to or in excess of 56 hours a week. Very often they are not compensated for overtime, they are not paid the minimum wage that is required by law in the country, and very often they are hired for short periods of time and they are forced out of the job because they prefer to have younger workers and they force people out after the age of 25.

Many of the workers are given quotas that are almost unachievable. It means that they then have to come in and work off of the clock so they can start their new day of work.

Mr. Chairman, I want to applaud Duke University and Brown University and Cornell University, who is now in the process of considering these codes of conduct and those who have already passed codes of conduct, because I think that they are returning to the roots of the university system and demanding the excellence and integrity and dignity of their name and of those things that are associated with them. I would hope that all schools of higher education would support this effort.

Let me also make it clear that I do not believe that code of conduct is enough to ensure honest wages and safety from exploitative workplaces. But our committee has a number of those topics under discussion and those are topics for another time. These voluntary code of conducts, finally let me say, do work.

Over 2 years ago an effort was started in both the public and private sector to ask questions about soccer balls. Soccer balls were made in Malaysia, Indonesia, Bangladesh and elsewhere using very, very young children because they had tiny hands that could sew the soccer ball; and they used them until they could no longer do it, and then they were thrown out on the streets.

We started a campaign that was started by young children, a school-aged boy from Canada, a young boy from India that started this campaign. And today, today the International Soccer Federation will not give its consent to its name being put on a soccer ball if it is made with child labor.

Nike and Reebok, when they learned of this, completely reorganized how they construct these balls. They brought it in house. They do not allow labor to be exploited.

So a voluntary effort can make a big difference, as we are starting to see in some parts of the apparel industry, as we saw in the Soccer Federation, and I hope we will start to see on the university campuses. I would urge all of my colleagues to support this.

I would like to thank so many of the students across the country who have taken up this effort, have brought this to the attention of the university administrations. And I would hope that we would soon have a university-wide voluntary code of conduct with respect to the purchase of this.

Mr. Chairman, I would like to submit for the RECORD several additional items, including: my complete floor statement; the list of the members of the Apparel Industry Partnership; a copy of the report of the Apparel Industry Partnership to President Clinton that includes the code of conduct that has become the basis for codes being used by other universities and colleges; and, three editorials on the Apparel Industry Partnership's report.

Participants in the Apparel Industry Partnership include: Liz Claiborne Inc.; Nike; Phillips-Van Heusen; Reebok; L.L. Bean; Patagonia; Tweeds; Nicole Miller; Karen Kane; UNITE; the Retail, Wholesale, Department Store Union; Business for Social Responsibility; the Interfaith Center on Corporate Responsibility; the International Labor Rights Fund; Lawyers Committee for Human Rights; the National Consumers League; and the RFK Memorial Center for Human Rights.

REPORT OF APPAREL INDUSTRY PARTNERSHIP

The members of the Apparel Industry Partnership hereby report to the President and to the public on:

The announcement of the attached ''Workplace Code of Conduct'' as a set of standards defining decent and humane working conditions;

The individual determination of each company participating in the Partnership to adhere to the Code and to implement as soon as reasonably practicable a monitoring program consistent with the attached ''Principles of Monitoring,'' by adopting an internal monitoring program consistent with such Principles and utilizing an independent external monitor that agrees to conduct its monitoring consistent with such Principles; and

The Partnership's commitment to work together to form, during a six-month transition period, a nonprofit association that would have the following functions intended to provide the public with confidence about compliance with the Code:

To determine the criteria for company membership in the association and for companies to remain members in good standing of the association;

To develop criteria and implement procedures for the qualification of independent external monitors;

To design audit and other instruments for the establishment of baseline monitoring practices;

To continue to address questions critical to the elimination of sweatshop practices;

To develop means to maximize the ability of member companies to remedy any instances of noncompliance with the Code; and

To serve as a source of information to consumers about the Code and about companies that comply with the Code.

The association would be governed by a board whose members would be nominated by companies, labor unions and consumer, human rights and religious groups. The Partnership would work together during this transition period to further determine the governance of the association.

WORKPLACE CODE OF CONDUCT

The Apparel Industry Partnership has addressed issues related to the eradication of sweatshops in the United States and abroad. On the basis of this examination, the Partnership has formulated the following set of standards defining decent and humane working conditions. The Partnership believes that consumers can have confidence that products that are manufactured in compliance with these standards are not produced under exploitative or inhumane conditions.

Forced Labor. There shall not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.

Child Labor. No person shall be employed at an age younger than 15 (or 14 where the law of the country of manufacture[1] allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

Harassment or Abuse. Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

Nondiscrimination. No person shall be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.

Health and Safety. Employers shall provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities.

Freedom of Association and Collective Bargaining. Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.

Wages and Benefits. Employers recognize that wages are essential to meeting employees' basic needs. Employers shall pay employees, as a floor, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and shall provide legally mandated benefits.

Hours of Work. Except in extraordinary business circumstances, employees shall (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime, or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country do not limit the hours of work, the regular work week in such country plus 12 hours overtime and (ii) be entitled to at least one day off in every seven day period.

Overtime Compensation. In addition to their compensation for regular hours of work, employees shall be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws do not exist, at a rate at least equal to their regular hourly compensation rate.

Any company that determines to adopt the Workplace Code of Conduct shall, in addition to complying with all applicable laws of the country of manufacture, comply with and support the Workplace Code of Conduct in accordance with the attached Principles of Monitoring and shall apply the higher standard in cases of differences or conflicts. Any company that determines to adopt the Workplace Code of Conduct also shall require its contractors and, in the case of a retailer, its suppliers to comply with applicable local laws and with this Code in accordance with the attached Principles of Monitoring and to apply the higher standard in cases of differences or conflicts.

PRINCIPLES OF MONITORING

I. Obligations of Companies[2]

A. Establish Clear Standards

Establish and articulate clear, written workplace standards;[3]

Formally convey those standards to company factories as well as to contractors and suppliers;[4]

Receive written certifications, on a regular basis, from company factories as well as contractors and suppliers that standards are being met, and that employees have been informed about the standards; and

Obtain written agreement of company factories and contractors and suppliers to submit to periodic inspections and audits, including by independent external monitors, for compliance with the workplace standards.

B. Create An Informed Workplace

Ensure that all company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

C. Develop An Information Database

Develop a questionnaire to verify and quantify compliance with the workplace standards; and

Require company factories and contractors and suppliers to complete and submit the questionnaire to the company on a regular basis.

D. Establish Program to Train Company Monitors

Provide training on a regular basis to company monitors about the workplace standards and applicable local and international law, as well as about effective monitoring practices, so as to enable company monitors to be able to assess compliance with the standards

E. Conduct Periodic Visits and Audits

Have trained company monitors conduct periodic announced and unannounced visits to an appropriate sampling of company factories and facilities of contractors and suppliers to assess compliance with the workplace standards; and

Have company monitors conduct periodic audits of production records and practices and of wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers.

F. Provide Employees With Opportunity to Report Noncompliance

Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable company employees and employees of contractors and suppliers to report to the company on noncompliance with the workplace standards, with security that they will not be punished or prejudiced for doing so.

G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

Consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions and utilize, where companies deem necessary, such local institutions to facilitate communication with company employees and employees of contractors and suppliers in the reporting of noncompliance with the workplace standards;

Consult periodically with legally constituted unions representing employees at the worksite regarding the monitoring process and utilize, where companies deem appropriate, the input of such unions; and

Assure that implementation of monitoring is consistent with applicable collective bargaining agreements.

H. Establish Means of Remediation

Work with company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards promptly as they are discovered and to take steps to ensure that such instances do not recur; and

Condition future business with contractors and suppliers upon compliance with the standards.

II. Obligations of independent external monitors

A. Establish Clear Evaluation Guidelines and Criteria

Establish clear, written criteria and guidelines for evaluation of company compliance with the workplace standards

B. Review Company Information Database

Conduct independent review of written data obtained by company to verify and quantify compliance with the workplace standards

C. Verify Creation of Informed Workplace

Verify that company employees and employees of contractors and suppliers have been informed about the workplace standards orally, through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and through other educational efforts.

D. Verify Establishment of Communications Channel

Verify that the company has established a secure communications channel to enable company employees and employees of contractors and suppliers to report to the company on noncompliance with the workplace

standards, with security that they will not be punished or prejudiced for doing so.

E. Be Given Independent Access to, and Conduct Independent Audit of, Employee Records

Be given independent access to all production records and practices and wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers; and

Conduct independent audit, on a confidential basis, of an appropriate sampling of production records and practices and wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers.

F. Conduct Periodic Visits and Audits

Conduct periodic announced and unannounced visits, on a confidential basis, of an appropriate sampling of company factories and facilities of contractors and suppliers to survey compliance with the workplace standards.

G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

In those instances where independent external monitors themselves are not leading local human rights, labor rights, religious or other similar institutions, consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions; and

Assure that implementation of monitoring is consistent with applicable collective bargaining agreements and performed in consultation with legally constituted unions representing employees at the worksite.

H. Conduct Confidential Employee Interviews

Conduct periodic confidential interviews, in a manner appropriate to the culture and situation, with a random sampling of company employees and employees of contractors and suppliers (in their local languages) to determine employee perspective on compliance with the workplace standards; and

Utilize human rights, labor, religious or other leading local institutions to facilitate communication with company employees and employees of contractors and suppliers, both in the conduct of employee interviews and in the reporting of noncompliance.

I. Implement Remediation

Work, where appropriate, with company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards.

J. Complete Evaluation Report

Complete report evaluating company compliance with the workplace standards.

Endnotes:

[1] All references to local law throughout this Code shall include regulations implemented in accordance with applicable local law.

[2] It is recognized that implementation by companies of internal monitoring programs might vary depending upon the extent of their resources but that any internal monitoring program adopted by a company would be consistent with these Principles of Monitoring. If companies do not have the resources to implement some of these Principles as part of an internal monitoring program, they may delegate the implementation of such Principles to their independent external monitors.

[3] Adoption of the Workplace Code of Conduct would satisfy the requirement to establish and articulate clear written standards. Accordingly, all references to the ''workplace standards'' and the ''standards'' throughout this document could be replaced with a reference to the Workplace Code of Conduct.

[4] These Principles of Monitoring should apply to contractors where the company adopting the workplace standards is a manufacturer (including a retailer acting as a manufacturer) and to suppliers where the company adopting the standards is a retailer (including a manufacturer acting as a retailer). A ''contractor'' or a ''supplier'' shall mean any contractor or supplier engaged in a manufacturing process, including cutting, sewing, assembling and packaging, which results in a finished product for the consumer.

[From the San Francisco Examiner, Apr. 17, 1997]

''NO SWEAT'' REQUIRES SWEAT EQUITY

A CODE OF CONDUCT PLEDGED BY NIKE, REEBOK AND OTHERS IS ONLY A FIRST STEP TOWARD ENDING INTERNATIONAL SWEATSHOP ABUSES

With strong caveats, we endorse the creation of a code of conduct to fight sweatshop practices around the world. It is a good first step if the participating shoe and apparel manufacturers are serious about making it work.

Agreement was announced Monday by several companies—including Nike, Reebok, Liz Claiborne, Patagonia and L.L. Bean—along with human rights and labor groups that joined together as members of a presidential task force. Some critics, however, said the code would only lead to ''kinder, gentler sweatshops.''

Required under the new code are the elimination of child labor, a guarantee of pay at the minimum wage prevailing in the country of manufacture, a maximum 60-hour week, the end of abusive working conditions and protection of workers' right to organize. Unsettled are details of inspections and sanctions, which are critical to success of the code.

In exchange, companies that comply will be able to emblazon merchandise with a ''No Sweat'' label, a signal to buyers that sweatshop labor was not used in its manufacture.

The responsibility of American manufacturers toward workers in their foreign plant—in Indonesia, Vietnam, Haiti and other countries—has been a controversial issue. Now, at least, the companies are publicly pledged to uphold minimum standards and to fight abusive conditions.

''This is a breakthrough agreement that really stands to benefit workers around the world,'' said Michael Posner, a task force member and executive director of the Lawyers Committee on Human Rights.

To prevent the code of conduct from becoming merely a public relations device—a coverup for continued sweatshop activity—we beleive two additional steps are necessary.

First, manufacturers must agree to factory inspections carried out by truly independent groups, not just auditors hired by the companies. Inclusion of internationally respected groups such as Amnesty International or Human Rights Watch would clinch the effort's credibility.

Second, violations must be announced publicly and quickly. This carries two beneficial effects: Consumers will be resurred that the inspections aren't a sham, and companies will be prodded to correct deficiencies without delay. Companies that don't must be stripped of their ''No Sweat'' logos.

The code will not solve all the world's problems. Nor should it be expected to do so. No realistic, economically sophisticated person should expect Nike or Reebok to pay workers far above their country 's prevailing wage, no matter how ''just'' that may seem to U.S. critics.

What's more important is halting abuses such as those reported by USA Today earlier this year in plants run by Nike subcontractors in Vietnam. One factory floor manager was convicted of beating Vietnamese workers with a shoe. Another Nike subcontractor was cited for making 58 Vietnamese women employees run laps as punishment until some dropped from exhaustion and had to be taken to a hospital.

Such revelations are not good news for Nike or any other manufacturer that basks in an all-American image. Self-interest, if not humanitarian zeal, ought to be an impetus to just do the right thing.

American companies that manufacture abroad are sometimes portrayed as economic pirates. Left unsaid is that they benefit hundreds of thousands of foreign workers, who, after all, are not coerced to work for Nike or Reebok but line up for the chance. They know that a job that pays even a few dollars a day is better than no job.

Nothing should absolve American companies of their wider social responsibilities. The code is a beginning. The debate will continue.

As long as it's sincere, this joint effort by companies and human rights groups can accomplish more than rhetorical campaigns to improve the lot of international workers. But the ''No Sweat'' labels must mean a real commitment and not a public relations gimmick. Over time, cheaters never win.

[From the Los Angeles Times, Apr. 16, 1997]

A BIG NO TO SWEATSHOPS

CLINTON PLAN FOR A CODE AND ''NO SWEAT'' LABEL ON CLOTHING IS LAUDABLE

The president of the United States has the ability to do many things but so far not to erase sweatshop labor practices in American and overseas clothing factories. Bill Clinton, however, at least is trying.

This week he proposed a voluntary code under which U.S. clothing companies would accept the presence of independent auditors to monitor compliance with a minimum set of workplace labor laws. The code would apply whether the work was done in the United States or abroad. Companies that pay at least the legal minimum wage in the country where the work is being done, use no child labor, have a workweek of no more than 60 hours and give workers at least one day off each week would be permitted to apply a ''No Sweat'' label to their clothes. Cute, and potentially effective.

Some critics will argue that the code merely sets forth standards that every company in the world should be observing anyway. But in fact few companies in the clothing industry or, for that matter, in some other handwork industries adhere to these minimum legal standards.

Another objection to the presidential initiative deals with the composition of the independent panel that would monitor compliance. Some American union leaders insist that non-governmental, religious and human rights organizations, plus union representatives, perform the process. Employers who have agreed to the code want an international firm of auditors to do that job.

This should not be an issue. As long as the auditors do not have any conflict of interest, there should be no problem. The program should have a grievance procedure, however. And there is no doubt that under a grievance process the workers would use their voice to complain about any injustice, whether covered in the code or not.

The real test for the presidential initiative will be whether consumers make the ''No Sweat'' label the decisive element when they go shopping for clothes. That will make all the difference.

[From the New York Times, Apr. 16]

A MODEST START ON SWEATSHOPS

A newly proposed code of conduct for domestic and overseas sweatshops makes useful pledges to improve the appalling working conditions of apparel workers around the world. But the code is so littered with loopholes its impact will probably be limited unless public and press attention remains fixed on the problems of sweatshop workers.

The Presidential task force that developed the code included industry giants like Nike, Reebok, L.L. Bean and Liz Claiborne, as well as representatives of labor and human rights groups. It got industry pledges to provide abuse-free factories, hire children at least 15 years old, limit workweek to 60 hours and protect the right of workers to organize without fear of retaliation by their employers. The code also calls for companies to hire independent monitors that would work with local human rights groups. This provision is vital, since in oppressive societies workers would only voice discontent to groups that have gained their trust.

Identifying and publicizing abuses is essential to improving conditions. The coverage of inhumane conditions at Central American factories turning out clothes for Wal-Mart under the name of Kathie Lee Gifford led to creation of the task force. Two years ago, the industry would have brushed off any proposal to monitor its third-world factories.

The weakness of the code is its lack of precise commitments. The accord suggests but does not require local independent monitoring of working conditions or public disclosure of infractions. The 60-hour limit on the workweek can be waived for what are called ''extraordinary'' circumstances.

Even if a follow-up commission strengthens the wording, the code cannot work unless American consumers penalize non-participants. Some companies will not sign the code. Warnaco, which makes Hathaway shirts, withdrew from the task force because the company fears that the public disclosure of monitors' reports will reveal trade secrets to competitors. If consumers flock to lower-priced clothes produced by companies that ignore the code, the effort will fail.

The task force correctly rejected the idea of imposing a ''living'' wage, calling instead for companies to pay only the locally prevailing minimum wage. An externally determined wage would almost surely victimize the world's worst-paid workers. Manufacturers would close shop in countries like Haiti and Vietnam where workers produce too little to cover the higher wage employers would be required to pay, and reopen somewhere else where factories are more productive. The more humane course is to rely on competition to drive up productivity and wages, as has happened in South Korea and other Asian economies.

At best, a voluntary accord that includes industry can only accomplish so much. The task force may help reduce the political heat on Mr. Clinton, labor unions and industry to deal with the working conditions in faraway factories. Whether third-world workers will ever see a benefit depends on sharpening the code and intensifying disclosure of companies that violate its provisions.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

I do not plan to oppose the Miller amendment. It is a sense of Congress resolution. But I do want to make a couple of comments about it.

First of all, I appreciate the willingness of the gentleman from California (Mr. MILLER) to delete from his original amendment the list of findings that I think were problematic both from a germaneness point of view and in terms of some of the specific items that were included.

Secondly, I have a concern that the amendment urges American colleges and universities to do something that neither they nor we have much guidance on what is intended.

It is my understanding there are some universities that have adopted some type of codes of conduct for their licensed apparel. But we do not know how well these codes work at this particular time. It is unclear since it is a rather limited experience.

I understand the resolution basically says that codes of conduct are generally a good idea. Beyond that, we really do not have much information on how they work in the context of colleges' and universities' licensed apparel. I would particularly make the point with regard to the issue of monitoring. This has obviously been the most difficult issue with regard to voluntary codes of conduct.

On the one hand, there are those who believe that only independent monitoring is effective; on the other hand, there are always questions about who would do the monitoring, who would choose the monitors, what would the monitors use as a baseline, and so on. Because these questions remain, I believe it would be premature to endorse independent monitoring in terms of any direction we give to colleges and universities.

A few weeks ago, the gentleman from Michigan (Mr. HOEKSTRA) and I traveled to New York City and saw firsthand some of the most horrendous working conditions I have ever seen and certainly conditions that I did not expect ever to see in this country. And I know that sweatshops exist not just in other parts of the world but in this country.

So I do not oppose this amendment. I think it is important to emphasize that what it is saying basically, is that we think codes of conduct may be a good idea in helping to deal with them; and what we recognize is that it is much more difficult to actually implement a code of conduct and have it make a difference than it is to pass the resolution.

So we accept the Miller amendment.

Mr. BONIOR. Mr. Chairman, we all like to cheer for our favorite teams, and a lot of us proclaim our loyalty by wearing T-shirts and caps with the team logo.

Unfortunately, millions of these items are being produced overseas using child labor, in unsafe factories and at slave wages.

Take those baseball caps for example, the ones sporting names of major universities. They sell for $20 apiece all across America.

A lot of them are made in the Dominican Republic by people who get paid 8 cents a cap.

That's right—for each $20 cap a person sews, they get paid 8 cents.

Eight cents.

According to the New York Times, these hats are marketed under famous brand names such as Champion and Starter.

Well, I say it's time we start to champion a basic code of conduct.

A code of conduct to ensure that unscrupulous contractors are not exploiting people while profiting off the prestige of our great universities.

A code of conduct that enables fans to buy these shirts and caps and wear them with absolute pride.

A code of conduct that puts a premium on our principles, not just profit.

A code of conduct that will make a real difference in the daily lives of thousands of people—people we will never meet, but people whose only desire is the chance to make a decent living for their families.

The idea of a code of conduct is both creative and concrete.

It is a practical idea already in place at Duke University. Brown University is not far behind. Today I call on the universities in my state to follow their lead, especially the University of Michigan and Michigan State University.

This amendment will send a strong message that we oppose sweatshops, and that we urge this nation's colleges and universities to do their part to eradicate such abhorrent conditions.

Fans and consumers have a right to support their favorite schools without supporting sweatshops, and I strongly urge my colleagues to support this amendment.

Mr. SCHUMER. Mr. Chairman, as a supporter of H.R. 6, I'd like to draw your attention to part of the bill I helped author—the campus crime provisions.

Despite our best efforts with the 1990 Campus Crime bill, parents and students still don't know how safe their campuses are.

Colleges' typical reports of 3 or 4 burglaries, sexual assaults and alcohol violations are far too small to be believed by anyone—even the colleges themselves.

The bill we're considering today will bring us one step closer to our goal of making sure that parents have the information they need about campus safety.

The bill expands the people obligated to report crimes, expands the types of crime to be reported and, for the first time, opens up campus crime reports to the public through a campus crime log.

The log documents where, when and what crimes occur on campus.

Making these crime reports public will hold schools accountable for their accuracy.

Parents deserve to know how safe their children's campus is. And the campus security provisions of this bill will help them make that determination.

I want to thank the U.S. Students' Association, Chairman GOODLING and Representative DUNCAN for all their hard work on this issue.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, further proceedings on the amendment offered by the gentleman from California (Mr. MILLER) will be postponed.

The point of no quorum is considered withdrawn.

Are there any further amendments to title VIII?

□ 1600

AMENDMENT NO. 58 OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. EWING). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 58 offered by Mr. KILDEE:

Page 334, after line 19, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 806. STUDY OF CONSOLIDATION OPTIONS.

No later than 2 years after the date of enactment of this Act, the Secretary shall report to Congress on the desirability and feasibility of possible new Federal efforts to assist individuals who have substantial alternative student loans (other than direct student loans and federally guaranteed student loans) to repay their student loans. The report shall include an analysis of the extent to which the high monthly payments associated with such loans deter such individuals from jobs (including public-interest and public-service jobs) with lower salaries than the average in relevant professions. The report shall include an analysis of the desirability and feasibility of allowing the consolidation of alternative student loans held by such individuals through the Federal student loan consolidation program or the use of other means to provide income-contingent repayment plans for alternative student loans.

Mr. KILDEE. Mr. Chairman, I offer this amendment on behalf of the gentleman from Colorado (Mr. SKAGGS), who unfortunately is hospitalized with an emergency appendectomy. I know that everyone in the House wishes him a very speedy recovery.

The Skaggs amendment would require the Secretary of Education to examine the very serious and substantial debts that students are amassing because of loans, other than those authorized in this legislation, they must obtain in order to pay for a college education. Specifically, the Secretary would be charged with the responsibility of determining the desirability and feasibility of new Federal efforts to assist such individuals repay these loans.

I understand this amendment has been agreed to by the other side. I would urge its adoption.

Mr. MCKEON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from California.

Mr. MCKEON. I thank the gentleman for yielding. Mr. Chairman, we do support this amendment. Likewise, we wish the best to the gentleman from Colorado (Mr. SKAGGS) and hope he is able to join with us quickly. This amendment will improve the bill.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. KILDEE).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. STUPAK:

Page 334, strike lines 20 and 21 and insert the following:

SEC. 806. REPEALS AND EXTENSIONS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.

Page 335, line 7, strike ''D, and E'' and insert ''and D''; and after line 7, insert the following:

(3) OLYMPIC SCHOLARSHIPS.—Section 1543(d) of the Higher Education Amendments of 1992 is amended by striking ''1993'' and inserting ''1999''.

Mr. STUPAK. Mr. Chairman, today I am offering an amendment which reauthorizes the Olympic Education Scholarship program. This valuable program was first authorized in the 1992 Higher Education Act. It is designed and its purpose is to assist Olympic athletes continue their pursuit of education while training at the various Olympic training and education centers by authorizing up to $5 million for college scholarships.

Olympic athletes train at four Olympic centers in the United States, Marquette, Michigan; Lake Placid, New York; Colorado Springs, Colorado; and San Diego, California. More than 450 athletes train full time at all of the training sites to prepare for the Olympic games and thousands more train there part time. Many of these athletes participated in the Nagano games just 3 months ago.

Last week the President hosted our Winter Olympic athletes from the 1998 games at the White House. Except for a very few sports, there is no post-Olympic professional athletic career for most Olympians. As a result, Mr. Chairman, education becomes a critical factor in the lives of these young people. But as so many of our American Olympians will attest, too often they must postpone or even forgo an education in order to prepare to represent the United States in the Olympic games. Many of the athletes would have greater access to college because of the Olympic scholarship, and the education they receive while training provides them with an excellent opportunity to prepare them for post-Olympic life.

Some athletes currently attend college while training. Many others, however, do not have the resources to pay for tuition and are unable to take classes. Unlike college athletes, many Olympic athletes spend thousands of dollars annually on equipment and travel to major events. The only way they can attend school is if scholarships are provided. That is why we need to reauthorize the Olympic scholarship program.

One example of this need of the Olympic education scholarship is Mark Lenzi, a gold medal winner diver at the Barcelona games in 1992. Mr. Lenzi announced on network television that he would sell his Olympic gold medal to help him pay for his college tuition.

Mr. Chairman, I am tremendously impressed with the dedication, determination and work ethic of our Olympic hopefuls. Given the opportunity, they apply the same dedication to their academic endeavors. Balancing a schedule of rigorous training and education is very difficult for any person. We should not, however, put our Olympic athletes in a position where they have to sacrifice an education in order to represent our country in the Olympic games.

Last week we had the Olympic dinner. Many of us attended and many of us patted the athletes on the back for a job well done. But what about an education? Last week when we were here, many Members had their photograph taken with the Olympic athletes. In fact, I was walking over on the other side and there were many of them out on the steps of the Capitol taking their picture with the Olympic athletes. But more than photo opportunities with congressional representatives and more than a dinner and more than a pat on the back, they need a helping hand and not a handout.

This is an opportunity to compete in the education field. Each Member in this House can help each Olympic athlete by reauthorizing this invaluable program. I know that there will be the other side who may say, well, we are not going to authorize new programs. This is a reauthorization of an old program. I know our job is only half done, that we still have to go to the Committee on Appropriations to get appropriations. Olympians know how to fight, they know how to compete. What we are asking for is to give them the opportunity to compete to reauthorize the Olympic Education Scholarship Program.

This amendment will simply give us a chance to continue the Olympic education scholarship to provide a commitment to our Olympic athletes beyond their performances in the games. I urge my colleagues to vote with me to reauthorize the Olympic Education Scholarship Program.

Mr. MCKEON. Mr. Chairman, I move to strike the last word. Mr. Chairman, one of the good things that we have done in this bill is we have eliminated 45 unfunded programs and 11 studies and commissions. This is an attempt to bring one of these programs back before we have even finally moved final passage.

This program is unfunded and repealed in H.R. 6 along with all of the other unfunded programs I mentioned. This is pursuant to an agreement between the chairman and ranking member of the subcommittee with jurisdiction. We have worked this out in a bipartisan way. We are happy with the product that we have produced. We think we are doing the best for students and for the most possible people with the money available.

Students pursuing a postsecondary education may receive Federal student aid if they qualify under the Higher Education Act. There is no need for a separate program and the increased administrative costs associated with the new program when student athletes are already eligible just like any other student.

In this reauthorization we have tried to eliminate unfunded programs and limit the number of new programs created so that the appropriators have a clear understanding of the priorities of the committee when it comes to funding the higher education programs.

Available funds should be committed to the programs which will work and serve the largest number of students. I urge a no vote on this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. STUPAK).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. STUPAK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, further proceedings on the amendment offered by the gentleman from Michigan (Mr. STUPAK) will be postponed.

The point of no quorum is considered withdrawn.

Are there further amendments to title VIII?

If not, the Clerk will designate title IX.

The text of title IX is as follows:

TITLE IX—AMENDMENTS TO OTHER LAWS

PART A—EDUCATION OF THE DEAF ACT

Subpart 1—Gallaudet University

SEC. 901. BOARD OF TRUSTEES MEMBERSHIP.

Section 103(a)(1) of the Education of the Deaf Act of 1986 (20 U.S.C. 4303(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''twenty-one'' and inserting ''twenty-two'';

(2) in subparagraph (A), by striking ''and'' at the end;

(3) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(C) the liaison designated under section 206, who shall serve as an ex-officio, nonvoting member.''.

SEC. 902. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 104(b)(3) of the Education of the Deaf Act of 1986 (20 U.S.C. 4304(b)(3)) is amended by striking ''intermediate educational unit'' and inserting ''educational service agency''.

(b) ADDITIONAL REQUIREMENTS.—Section 104(b)(4)(C) of such Act (20 U.S.C. 4304(b)(4)(C)) is amended by striking clauses (i) through (iv) and inserting the following:

''(i) Paragraph (1) and paragraphs (3) through (6) of subsection (b).

''(ii) Subsections (e) through (g).

''(iii) Subsection (h), except the provision contained in such subsection that requires that findings of fact and decisions be transmitted to the State advisory panel.

''(iv) Paragraphs (1) and (2) of subsection (i).

''(v) Subsection (j), except that such subsection shall not be applicable to a decision by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child's parents and to the local educational agency in which the child resides.

''(vi) Subsections (k) through (m).''.

SEC. 903. AGREEMENT WITH GALLAUDET UNIVERSITY.

Section 105(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4305(a)) is amended—

(1) in the first sentence, by striking ''within 1 year after enactment of the Education of the Deaf Act Amendments of 1992, a new'' and inserting ''and periodically update, an''; and

(2) by amending the second sentence to read as follows: ''The necessity of the periodic update referred to in the preceding sentence shall be determined by the Secretary or the University.''.

Subpart 2—National Institute For The Deaf

SEC. 911. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

Section 112 of the Education of the Deaf Act of 1986 (20 U.S.C. 4332) is amended—

(1) in subsection (a)(2), by striking ''under this section'' and all that follows and inserting the following: ''under this section—

''(A) shall periodically assess the need for modification of the agreement; and

''(B) shall also periodically update the agreement as determined to be necessary by the Secretary or the institution.''; and

(2) in subsection (b)(3), by striking ''Committee on Education and Labor'' and inserting ''Committee on Education and the Workforce''.

Subpart 3—General Provisions

SEC. 921. DEFINITIONS.

Section 201 of the Education of the Deaf Act of 1986 (20 U.S.C. 4351) is amended—

(1) in paragraph (1)(C), by striking ''Palau (but only until the Compact of Free Association with Palau takes effect),''; and

(2) in paragraph (5)—

(A) by inserting ''and'' before ''the Commonwealth of the Northern Mariana Islands''; and

(B) by striking '', and Palau'' and all that follows and inserting a period.

SEC. 922. AUDITS.

Section 203(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4353(b)) is amended in the first sentence by inserting before the period at the end the following: '', including the national mission and school operations of the elementary and secondary programs''.

SEC. 923. REPORTS.

Section 204 of the Education of the Deaf Act of 1986 (20 U.S.C. 4354) is amended in the matter preceding paragraph (1) by striking ''Committee on Education and Labor'' and inserting ''Committee on Education and the Workforce''.

SEC. 924. MONITORING, EVALUATION, AND REPORTING.

Section 205(c) of the Education of the Deaf Act of 1986 (20 U.S.C. 4355(c)) is amended by striking ''1993, 1994, 1995, 1996, and 1997'' and inserting ''1999 through 2003''.

SEC. 925. RESPONSIBILITY OF THE LIAISON.

Section 206 of the Education of the Deaf Act (20 U.S.C. 4356) is amended—

(1) in subsection (a), by striking ''Not later than 30 days after the date of enactment of this Act, the'' and inserting ''The''; and

(2) in subsection (b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) serve as an ex-officio, nonvoting member of the Board of Trustees under section 103; and''.

SEC. 926. FEDERAL ENDOWMENT PROGRAMS.

(a) FEDERAL PAYMENTS.—Section 207(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4357(b)) is amended—

(1) in paragraph (2) to read as follows:

''(2) Subject to the availability of appropriations, the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources during the fiscal year in which the appropriations are made available (excluding transfers from other endowment funds of the institution involved).''; and

(2) by striking paragraph (3).

(b) WITHDRAWALS AND EXPENDITURES.—Section 207(d)(2)(C) of such Act (20 U.S.C. 4357(d)(2)(C)) is amended by striking ''Beginning on October 1, 1992, the'' and inserting ''The''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 207(h) of such Act (20 U.S.C. 4357(h)) is amended by striking ''fiscal years 1993 through 1997'' each place it appears and inserting ''fiscal years 1999 through 2003''.

SEC. 927. SCHOLARSHIP PROGRAM.

Section 208 of the Education of the Deaf Act of 1986 (20 U.S.C. 4358) is hereby repealed.

SEC. 928. OVERSIGHT AND EFFECT OF AGREEMENTS.

Section 209 of the Education of the Deaf Act of 1986 (20 U.S.C. 4359) is amended—

(1) in subsection (a), by striking ''Committee on Education and Labor'' and inserting ''Committee on Education and the Workforce''; and

(2) by redesignating such section as section 208.

SEC. 929. INTERNATIONAL STUDENTS.

(a) ENROLLMENT.—Section 210(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359a(a)) is amended to read as follows:

''(a) ENROLLMENT.—A qualified United States citizen seeking admission to the University or NTID shall not be denied admission in a given year due to the enrollment of international students.''.

(b) CONFORMING AMENDMENT.—Section 210 of such Act (20 U.S.C. 4359a) is amended by redesignating such section as section 209.

SEC. 930. AUTHORIZATION OF APPROPRIATIONS.

Section 211 of the Education of the Deaf Act of 1986 (20 U.S.C. 4360) is amended—

(1) in subsection (a), by striking ''such sums as may be necessary for each of the fiscal years 1993 through 1997'' and inserting ''$83,480,000 for fiscal year 1999, $84,732,000 for fiscal year 2000, $86,003,000 for fiscal year 2001, $87,293,000 for fiscal year 2002, and $88,603,000 for fiscal year 2003'';

(2) in subsection (b), by striking ''such sums as may be necessary for each of the fiscal years 1993 through 1997'' and inserting ''$44,791,000 for fiscal year 1999, $46,303,000 for fiscal year 2000, $50,136,000 for fiscal year 2001, $50,818,000 for fiscal year 2002, and $46,850,000 for fiscal year 2003''; and

(3) by redesignating such section as section 210.

PART B—EXTENSION AND REVISION OF INDIAN HIGHER EDUCATION PROGRAMS

SEC. 951. TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.

(a) EXTENSION TO COLLEGES AND UNIVERSITIES.—The Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) is amended—

(1) by striking ''community college'' each place it appears and inserting ''college or university'';

(2) by striking ''community colleges'' each place it appears and inserting ''colleges and universities'';

(3) by striking ''COMMUNITY COLLEGES'' in the heading of title I and inserting ''COLLEGES AND UNIVERSITIES'';

(4) by striking ''community college's'' in section 2(b)(5) and inserting ''college's or university's'';

(5) by striking ''the college'' in sections 102(b), 113(c)(2), and 305(a) and inserting ''the college or university'';

(6) by striking ''such colleges'' in sections 104(a)(2) and 111(a)(2) and inserting ''such colleges and universities'';

(7) by striking ''COMMUNITY COLLEGES'' in the heading of section 107 and inserting ''COLLEGES AND UNIVERSITIES'';

(8) by striking ''such college'' each place it appears in sections 108(a), 113(b)(2), 113(c)(2), 302, 303, 304, and 305 and inserting ''such college or university'';

(9) by striking ''such colleges'' in section 109(b) and inserting ''such college or university'';

(10) in section 110(a)(4), by striking ''Tribally Controlled Community Colleges'' and inserting ''tribally controlled colleges and universities'';

(11) by striking ''COMMUNITY COLLEGE'' in the heading of title III and inserting ''COLLEGE AND UNIVERSITY'';

(11) by striking ''that college'' in sections 302(b)(4) and 305(a) and inserting ''such college or university''; and

(12) by striking ''other colleges'' in section 302(b)(4) and insert ''other colleges and universities''.

(b) TITLE I ELIGIBLE GRANT RECIPIENTS.—Section 103 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1804) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(4) has been accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority as to the quality of training offered, or is, according to such an agency or association, making reasonable progress toward such accreditation.''.

(c) ELIGIBILITY AND ACCREDITATION.—Section 106 of such Act (25 U.S.C. 1806) is amended—

(1) in the section heading, by inserting ''AND ACCREDITATION PROGRAM'' after ''STUDIES'';

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

''(c) The Secretary of Education shall assist tribally controlled colleges and universities in the development of a national accrediting agency or association for such colleges and universities.''.

(d) AMOUNT OF TITLE I GRANTS.—Section 108(a)(2) of such Act (25 U.S.C. 1808(a)(2)) is amended by striking ''$5,820'' and inserting ''$6,000''.

(e) CLERICAL AMENDMENT.—Section 109 of such Act (25 U.S.C. 1809) is amended by redesignating subsection (d) as subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS FOR TITLE I.—Section 110 of such Act (25 U.S.C. 1810) is amended—

(1) by striking ''1993'' each place it appears and inserting ''1999''; and

(2) in subsection (a)(2), by striking ''$30,000,000'' and inserting ''$40,000,000''.

(g) AUTHORIZATION OF APPROPRIATIONS FOR TITLES III AND IV.—Sections 306 and 403 of such Act (25 U.S.C. 1836, 1852) are each amended by striking ''1993'' and inserting ''1999''.

SEC. 952. REAUTHORIZATION OF PROVISIONS FROM HIGHER EDUCATION AMENDMENTS OF 1992.

Title XIII of the Higher Education Amendments of 1992 (25 U.S.C. 3301 et seq.) is amended by striking ''1993'' each place it appears in sections 1348, 1365, and 1371(e), and inserting ''1999''.

SEC. 953. REAUTHORIZATION OF NAVAJO COMMUNITY COLLEGE ACT.

Section 5(a)(1) of the Navajo Community College Act (25 U.S.C. 640c–1) is amended by striking ''1993'' and inserting ''1999''.

AMENDMENT NO. 22 OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. FOLEY:

Page 346, after line 24, insert the following new part (and conform the table of contents accordingly):

Part C—General Education Provisions Act

SEC. 961. ACCESS TO RECORDS CONCERNING CRIMES OF VIOLENCE.

Section 444(h) of the General Education Provisions Act (20 U.S.C. 1232g(h)) is amended to read as follows:

''(h) DISCIPLINARY RECORDS.—(1) Nothing in this section shall prohibit an educational agency or institution from—

''(A) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

''(B) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

''(2) Nothing in this section shall prohibit any post-secondary educational agency or institution from disclosing disciplinary records of any kind which contain information that personally identifies a student or students who have either admitted to or been found to have committed any act, which is a crime of violence (as that term is defined in section 16 of title 18, United States Code), in violation of institutional policy, either as a violation of the law or a specific institutional policy, where such records are directly related to such misconduct.''.

Mr. FOLEY. Mr. Chairman, I rise in full support of the Higher Education Amendments of 1998, H.R. 6, and want to commend the fine work of the gentleman from Pennsylvania (Mr. GOODLING) for his efforts and labor of love on this important issue facing Americans, and that is higher education. This legislation will certainly go a long way to ensure that higher education remains an affordable option for our Nation's families.

I also want to commend the members of the Committee on Education and the Workforce for including in H.R. 6 important provisions of a bill that I cosponsored, the Accuracy in Crime Reporting Act. These provisions in H.R. 6 will improve the accuracy of information that parents and students receive about the dangers that exist on many of our college campuses.

I would like to take a moment to read from my hometown newspaper's editorial, the Sun-Sentinel, which appeared April 10, 1998. The editorial is titled Demand Accurate Crime Statistics From Colleges in Return for Funds.

College campuses are supposed to be sanctuaries of vigorous inquiry and quiet contemplation where truth and knowledge can be pursued in an atmosphere of security, dignity and mutual respect. But that academic ideal has become the exception rather than the rule at far too many contemporary colleges and universities, where the current epidemic of drug abuse, underage drinking, illegal gambling, sexual assault and violent crime have been one of the best-kept secrets in American society. Statistics compiled by Security on Campus, Inc., a nonprofit organization dedicated to making institutions of higher learning more accountable to the public, indicate that nationwide, 65 percent of fraternity members and 55 percent of sorority sisters can be characterized as binge drinkers, 15 percent to 20 percent of all students are recent users of illegal drugs and student-on-student offenses account for 80 percent of campus crime. Many, if not most, of these crimes never make it onto the police blotter or into the news media because of college officials' overly expansive definition of student privacy and law enforcement authorities' reluctance to infringe on the tradition of academic freedom. Increasingly, however, campus violence is reaching a point where it cannot easily be ignored or swept under the rug by the colleges' internal disciplinary systems. Students are dying of drug abuse, overdose and alcohol poisoning at an alarming rate. Rapes and murders on campuses are growing national problems.

However, by providing this amendment, I do want to clarify certain provisions of the Family Educational Rights and Privacy Act, known as FERPA. By preventing postsecondary institutions from disclosing education records to the public without the consent of students, FERPA guarantees that student academic and financial information remains confidential. This important protection should continue. However, the Department of Education has wrongly concluded that FERPA prevents universities from releasing to the public the results of campus disciplinary actions or proceedings. Under this interpretation of FERPA, student criminal activities like aggravated assault and rape are protected along with legitimately protected grade and financial aid information. This interpretation is wrong.

Escalating violence on college campuses across the Nation require that Congress clarify the intent of FERPA. I fully believe, Mr. Chairman, that every student has the right to privacy. But when a university finds through its own disciplinary proceedings that a student has committed an act of violence, such as sexual assault, the university community has a right to know about it. While I believe that campus disciplinary proceedings should be open to the public, I can appreciate the concerns many have raised against such a course of action.

Therefore, the amendment I am offering today simply removes the FERPA protection of disciplinary records that personally identifies a student who has either admitted to or been found to have committed any act of violence either as a violation of law or specific institutional policy. My amendment does not require any new obligation to disclose these records. On the contrary, it deregulates the issue from Federal purview and allows State public record law and common sense to take over.

When violence occurs on campuses, the university community needs to know about it. Only then will students be able to take appropriate precautions. I appreciate the leadership's willingness to work with us on this issue. I offer the amendment in the spirit of allowing parents, children and students to have access to this very vital and important information.

Mr. GOODLING. Mr. Chairman, I rise in support of the amendment. The Clery family from Pennsylvania lost a beautiful daughter some years ago who competed in tennis against my daughter because of a violent crime on the campus of Lehigh University. They have dedicated the rest of their lives to preventing other families from suffering the same tremendous loss. This is our continuing effort to help the Clerys in their fight to make college campuses crime-free.

The amendment continues the longstanding policy of protecting personally identifiable information included in a student's education record. However, it does not protect disciplinary records of students who have admitted to or been found to have committed any act that is a crime of violence. Information related to crimes of violence should not be protected from disclosure if we truly want our college campuses to be safe environments for all students. If students do not know about violent offenders in their college community, how will they know how to protect themselves? The records which may be disclosed under the gentleman's amendment are those which are directly related to a crime of violence which the offender has admitted to or been found to have committed. A crime of violence means an offense that has as an element the use, attempted use or threatened use of physical force against the person or property of another; or any other felony offense that by its nature involves a substantial risk that physical force against the personal property of another may be used in the course of committing the offense.

We should not be protecting these acts of violence simply because they occur on our Nation's college campuses. I support the gentleman's amendment. As I have said many times, up until recent years, I always thought that this violence was perpetrated by those who were coming from the town or community around onto the college campus, only to find out that drugs and alcohol are causing many violent crimes, particularly against women, on college campuses. I support the amendment.

□ 1615

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me say that I rise today in strong support of the Foley amendment as well as H.R. 6, the Higher Education Amendments Act of 1998. I want to commend the gentleman from Florida (Mr. FOLEY) and the gentleman from Pennsylvania (Mr. GOODLING) for bringing this legislation to the floor and this amendment to the floor, as well as my colleagues on the Committee on Education and the Workforce for their fine work on this very, very important issue.

The amendment before us today will strengthen this higher education bill by rectifying an extremely troublesome situation regarding campus crime reporting.

As my good friend from Florida has explained, in 1974 the Family Educational Rights and Privacy Act was passed to protect the privacy rights of students and their educational records. Unfortunately, colleges and universities are using this law to hide violent crimes statistics from their student body as well as prospective students and parents. This is outrageous. By hiding this information, students are put at risk because they do not know when a violent crime has been committed by a student or if that student remains even on campus. We need to give parents and students the information that accurately measures the dangers that are present on many college campuses today.

We tried to solve some of this last year when we passed my legislation which made it a felony crime and threw the book at those that would use the drug Rohypnol against unsuspecting female students on campuses, and that bill has made a lot of difference. I do not think anyone is naive enough to believe that their campus is devoid of all crime. However, by trying to avoid bad publicity and hiding violent crime statistics, colleges and university administrators are playing a deadly game with the safety of their students.

The Foley amendment lessens the danger on campuses by doing away with the Federal prohibition on informing the public when a student has committed a violent crime. By supporting this amendment we can make our colleges and universities a safer place for students. Mr. Chairman, I urge all my colleagues to join me in supporting the Foley amendment.

Before I close, Mr. Chairman, I would just like to say that I would like to commend my colleagues for supporting the Souder amendment, passed last night by a voice vote. This amendment strengthens the provision based on legislation that I had introduced which suspends Federal financial funds to students who have been convicted of any Federal or State drug use. The amendment offered by my good friend, the gentleman from Indiana (Mr. SOUDER) reinforces this language by requiring that along with rehabilitation, a student must test negative for two unannounced drug tests to be eligible for Federal education benefits. I supported this additional language and appreciate his invaluable support on this important issue to identify those students with drug problems and put them on the road to recovery.

Mr. Chairman, as my colleagues know, a number of years ago we passed the Solomon amendment which suspended the drivers' licenses of all people who were convicted of drug felonies, either selling or using drugs. As my colleagues know, that legislation now has swept the Nation. In New Jersey alone, they have revoked 10,000 drivers' licenses, which means we removed 10,000 drug users from the highways. Many of those people have been rehabilitated now because that license meant so much to them, and now they are obeying the law, they are drug-free, and they have their licenses back. This is the kind of legislation that we need to focus these young men and women on to make sure we are going to have a drug-free society.

Again I commend the gentleman from Florida (Mr. FOLEY) and the gentleman from Pennsylvania (Mr. GOODLING) for the excellent legislation. I hope we all come over and vote for the Foley amendment, and then let us pass this great bill.

Mr. FOX of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thank the gentleman from Florida (Mr. FOLEY) for offering this important amendment to the reauthorization of the Higher Education Act.

When a student makes the decision of what college or university to attend, this is one of the most important decisions in their lives. Unfortunately, our Nation's students are not able to make an informed decision about what college to attend because they do not have all the facts regarding each and every institution.

The Family Education Rights and Privacy Act provides institutions of higher education a method in which they may hide crime statistics from the public. Criminal misconduct can be filed away in confidential student grade and financial records.

The Foley amendment would seek to rectify this most serious abuse of the Family Education Rights and Privacy Act by permitting colleges and universities to tell their student bodies the names of students found to have committed violent crime. This knowledge would then be incorporated into the campus crime statistics. This will provide students with much needed information about the colleges they are attending or may choose to attend. Students and parents require this important information in order to make an informed decision about an institution as well as to empower them to make the necessary safety precautions when attending an institution.

In Pennsylvania, this initiative has been led and championed by the Cleary family, whose daughter was tragically murdered on a campus in Pennsylvania. We certainly do not want to see a repeat of this, and I compliment the Cleary family and the gentleman from Florida (Mr. FOLEY) for their leadership in moving this forward nationally.

The Foley amendment will not in any way expose victims or innocent students to the public. I believe that this is a well-balanced solution to the problem. The provisions will only apply to those who are found guilty by a university's plenary committee to have committed a conduct-code infraction involving a violent crime. When a violent act is committed, the campus community and indeed the community in general have a right to know. This amendment will provide this knowledge to the community.

Again I would like to thank the gentleman from Florida (Mr. FOLEY) for his leadership in offering this amendment and to the gentleman from Pennsylvania (Mr. GOODLING), and I urge my colleagues to adopt the amendment.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am here today in support of the amendment offered by the gentleman from Florida (Mr. FOLEY), but I was troubled by a comment that was made, a statistic, even though it may be true, about a high number of incidents of fraternities and sororities engaged in drinking and drug use on campus. While I know there are incidents that happen on campuses today, as they did when I was in college, and I know they probably always will with regard to alcohol and abuse of alcohol, but I do not want the impression left, Mr. Chairman, that all sororities and all fraternities and all students on all campuses engage in this kind of activity unlawfully. There are a number of national fraternity organizations, national sorority organizations, and nonfraternity and sorority organizations, the dorm leadership, employees and others who are very concerned about the alcohol problem, and they are making a very concerted effort in a very proper way to stop this kind of abuse on campus.

So while I do commend the gentleman for his amendment and realize that we need to have some statistical information that is appropriate under the circumstances I think we also have to recognize that on campuses today there is a very large group of students, Greek and nonGreek alike, who care very deeply about good conduct on campus and an anti-alcohol and anti-drug abuse program. So I do not want the impression left that all Greeks and all, as my colleagues know, nonGreeks alike are abusive of alcohol and drugs, because they are not. And we have incidents around the country that show that there are problems with alcohol abuse and drug abuse, but there are an awful lot of good kids and an awful lot of good fraternities and sororities who are making a very strong effort to stop this kind of activity and speaking out very forcefully in favor of an antidrug abuse and anti-alcohol policy.

So with that, I would be happy to support the amendment.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. NETHERCUTT. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Chairman, I appreciate the gentleman from Washington making those notations, and I think it is important to note when college fraternities and sororities have taken it upon themselves to change some of the behaviors among their peers, and I think it is laudable that we signal that there is a change on campuses now in that direction.

And I also wanted to, if I could, intrude on your time just to thank a school board member from Palm Beach County, Diane Heinz, Security on Campus, Howard and Connie Cleary, and my own staffer, Shawn Gallagher, who have worked very, very tirelessly on bringing this amendment to the floor and including it in the bill.

Mr. DUNCAN. Mr. Chairman, I rise in support of the Foley Amendment which would amend the federal academic privacy laws to exclude criminal actions.

I think that most people would think that matters like grades and financial aid records should be private matters between a student and his or her parents and their college or university. These records should not be released to the public. However, I think it is wrong that some students and colleges use these privacy laws to hide criminal acts.

This amendment is based on provisions of my bill H.R. 715, the Accuracy in Campus Crime Reporting Act. Both USA Today and the New Republic have supported my bill in full length stories. Both publications especially liked this bill because it amended the academic privacy laws. They do not think that federal law should be used to protest murderers and rapists.

At this time, the Department of Education is suing Miami University of Ohio to prevent them from obeying a Ohio Supreme Court ruling which ordered such criminal records to be released.

USA Today summarized the issue of federal law being used to protect and hide criminal activity:

> The government argues that university criminal records constitute 'academic records' and therefore should be as private as student grades.
>
> This outrage is just the [Education] Department's latest attempt to protect colleges' reputations as the expense of student safety. . . .
>
> The Education Department is supporting a last-ditch effort by some universities to bury information about campus crimes. Students involved in criminal acts are commonly encouraged to use a college's private disciplinary board instead of the public criminal justice system.

USA Today concluded:

> . . . it's a sad state of affairs when an act of Congress is necessary for the Education Department to protect students' safety.

I have been concerned about this issue for a long time and have been happy to work with Congressman Foley on this issue. I believe that this amendment will do a lot to make our campuses safer places by making students, their parents, and the general public aware of the dangers that exist on many college campuses.

The CHAIRMAN pro tempore (Mr. EWING). The question is the amendment offered by the gentleman from Florida (Mr. FOLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any further amendments to title IX?

If not, the Clerk will designate title X.

The text of title X is as follows:

TITLE X—FACULTY RETIREMENT PROVISIONS

SEC. 1001. VOLUNTARY RETIREMENT INCENTIVE PLANS.

(a) IN GENERAL.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end the following:

''(m) Notwithstanding subsection (f)(2)(B), it shall not be a violation of subsection (a), (b), (c), (e), or (i) solely because a plan of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) offers employees who are serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) additional benefits upon voluntary retirement that are reduced or eliminated on the basis of age, if—

''(1) such institution does not implement with respect to such employees any age-based reduction or elimination of benefits that are not such additional benefits, except as permitted by other provisions of this Act; and

''(2) with respect to each of such employees who have, as of the time the plan is adopted, attained the minimum age and satisfied all non-age-based conditions for receiving a benefit under the plan, such employee is not precluded on the basis of age from having 1 opportunity lasting not less than 180-days to elect to retire and to receive the maximum benefit that would be available to a younger employee if such younger employee were otherwise similarly situated to such employee.''.

(b) CONSTRUCTION.—

(1) APPLICATION.—Nothing in the amendment made by subsection (a) shall be construed to affect the application of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) with respect to—

(A) any employer other than an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965); or

(B) any plan not described in subsection (m) of section 4 of such Act (as added by subsection (a)).

(2) RELATIONSHIP TO PROVISIONS RELATING TO VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—Nothing in the amendment made by subsection (a) shall be construed to imply that a plan described in subsection (m) of section 4 of such Act (as added by subsection (a)) may not be considered to be a plan described in section 4(f)(2)(B)(ii) of such Act (29 U.S.C. 623(f)(2)(B)(ii)).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of enactment of this Act.

(2) EFFECT ON CAUSES OF ACTION EXISTING BEFORE DATE OF ENACTMENT.—The amendment made by subsection (a) shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 prior to the date of enactment of this Act.

The CHAIRMAN pro tempore. Are there any amendments to title X?

If not, the Clerk will designate title XI.

The text of title XI is as follows:

TITLE XI—OFFSETS REQUIRED

SEC. 1101. ASSURANCE OF OFFSETS.

(a) DECLARATION.—None of the provisions in this Act should take effect unless it contains the mandatory offsets set forth in subsection (b).

(b) ENUMERATION OF OFFSETS.—The offsets referred to in subsection (a) are provisions that—

(1) change the definition of default contained in section 435(l) to extend the period of delinquency prior to default by an additional 90 days;

(2) capitalize the interest accrued on unsubsidized and parent loans at the time that the borrower enters repayment;

(3) recall $65,000,000 in guaranty agency reserves, in addition to the amount required to be recalled pursuant to the amendments in section 422 of the Higher Education Act of 1965 contained in this Act;

(4) eliminate the dischargeability in bankruptcy of student loans made after the date of enactment of this Act for the cost of attendance for a baccalaureate or advanced degree, and for which the first payment was due more than seven years before the commencement of the bankruptcy action; and

(5) sell sufficient commodities from the National Defense stockpile to generate receipts of $80,000,000 in fiscal year 1999 and $480,000,000 over five years.

The CHAIRMAN pro tempore. Are there any amendments to title XI?

If not, are there any amendments to the end of the bill?

AMENDMENT NO. 80 OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 80 offered by Mr. KENNEDY of Massachusetts:

At the end of the bill add the following new title:

TITLE XI—ALCOHOL CONSUMPTION

SEC. 1101. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, in an effort to change the culture of alcohol consumption on college campuses, all college and university administrators should adopt the following code of principles:

(1) For an institution of higher education, the president of the institution shall appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force will make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution shall provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution shall provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities

(3) The institution shall enforce a ''zero tolerance'' policy on the illegal consumption and binge drinking of alcohol by its students and will take steps to reduce the opportunities for students, faculty, staff, and alumni to legally consume alcohol on campus.

(4) The institution shall vigorously enforce its code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems shall be referred to an on-campus counseling program.

(5) The institution shall adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It shall adopt polices limiting the advertisement and promotion of alcoholic beverages on campus.

(6) Recognizing that school-centered policies on alcohol will be unsuccessful if local businesses sell alcohol to underage or intoxicated students, the institution shall form a ''Town/Gown'' alliance with community leaders. That alliance shall encourage local commercial establishments that promote or sell alcoholic beverages to curtail illegal student access to alcohol and adopt responsible alcohol marketing and service practices.

Mr. KENNEDY of Massachusetts. Mr. Chairman, first of all, I want to express my thanks and gratitude to the chairman of the committee, the gentleman from California (Mr. MCKEON) and as well as to the gentleman from Michigan (Mr. KILDEE) who has done a tremendous job on this committee for so many years.

This amendment should not take long, because of the agreements between both sides of the aisle on the important issue of binge drinking that continues to plague college students. A recent Harvard study found that more than 40 percent of college students are binge drinking these days. As far-fetched as it may sound, in 1991 students spent more money on alcohol, over $5 billion, than on books. In colleges all across this country, alcohol abuse has become the unofficial college sport, sometimes with deadly consequences.

Alcohol is one of the leading causes of death, in fact the No. 1 cause of death of young people under the age of 24. Students at schools with high levels of binge drinking are three times more likely to be victims of sexual assault and violence. In the latest report, the Chronicle of Higher Education found that alcohol-related arrests on college campuses jumped 10 percent in 1996 alone.

Mr. Chairman, I ask that my colleagues join me in offering an amendment expressing the sense of the House that college administrators should adopt a code of principles and practices to first offer alcohol-free alternatives for students in terms of dorms, dances, concerts, and other kinds of activities; second, to work with local merchants to prevent alcohol sales to minors; third, to enforce a zero-tolerance policy for illegal alcohol and drug use on campus; and fourth, to provide alcohol and drug education and prevention and treatment on campuses and to discourage and limit alcohol sponsorship of on-campus events.

With that I want to thank again the gentleman from Indiana (Mr. SOUDER) who worked very hard with us on the committee for his hard work and his diligence, and I look forward to rapid movement on this amendment.

Mr. GOODLING. Mr. Chairman, I rise in support of the gentleman's amendment.

Mr. Chairman, I want to thank the gentleman for bringing the program to our attention. Although it currently exists in the Elementary and Secondary Education Act, it is appropriate that we include it in the Higher Education Act.

□ 1630

Combating illegal drug and alcohol use on our college campuses is vital to the well-being of our Nation's college students.

During the committee's consideration of H.R. 6, we adopted the amendment offered by the gentleman from Indiana (Mr. SOUDER) and long championed by the gentleman from New York (Mr. SOLOMON) to prohibit students convicted of drug offenses from receiving Federal student aid until they have completed a rehabilitation program and get the help they need to fight their abuse problem.

Encouraging institutions of higher education to develop and implement drug and alcohol abuse prevention programs should serve to help combat the ongoing problems this country faces related to drug and alcohol abuse and the violence often associated with both.

Mr. Chairman, I support the gentleman's amendment.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

AMENDMENT NO. 64 OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 64 offered by Mr. LIVINGSTON:

Add at the end the following new title (and conform the table of contents accordingly):

TITLE XI—PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS

SEC. 1101. PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.

(a) PROTECTION OF RIGHTS.—It is the sense of the House of Representatives that no student attending an institution of higher education on a full- or part-time basis should, on the basis of protected speech and association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division directly or indirectly receiving financial assistance under the Higher Education Act of 1965, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(b) SANCTIONS FOR DISRUPTION PERMITTED.—Nothing in this section shall be construed to discourage the imposition of an official sanction on a student that was willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education.

(c) DEFINITIONS.—For the purposes of this section:

(1) PROTECTED SPEECH.—The term ''protected speech'' means speech that is protected under the 1st and 14th amendments to the United States Constitution, or would be so protected if the institution of higher education were subjected to those amendments.

(2) PROTECTED ASSOCIATION.—The term ''protected association'' means the right to join, assemble, and reside with others that is protected under the 1st and 14th amendments to the United States Constitution, or would be protected if the institution of higher education were subject to those amendments.

(3) OFFICIAL SANCTION.—The term ''official sanction''—

(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

Mr. LIVINGSTON. Mr. Chairman, a number of colleges throughout this country are vigorously attacking their students' constitutionally protected right of free speech and association. The controversy centers on a decision by some private schools to ban all single-sex organizations like fraternities and sororities and restrict any student involvement with them, even if it is off

campus and on their own time. Punishments for such offenses range from possible suspension to expulsion.

Mr. Chairman, disciplining students for attending a fraternity or sorority dinner, or a women's Bible study, or a YMCA event is obviously clearly a violation of the constitutionally protected rights of association and free speech. Public institutions are strictly prohibited from violating these rights, and they cannot bar single-sex organizations like fraternities and sororities without just cause.

Private colleges argue that they are not subject to the same constitutional statutory restrictions as public institutions. The colleges cite court rulings dating back to the Supreme Court's Dartmouth College case in 1819. Unfortunately, though, unlike the Dartmouth College case of 1819, many of the private colleges are today not truly private.

For example, many of these institutions receive State and Federal funding. Donations to them are exempt from taxation and, likewise, their property and income are often provided tax advantages, even though many private colleges own and operate businesses dealing directly with the public.

The right of association is well established, Mr. Chairman, in the Constitution. In Healy v. James, the Supreme Court said that the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools. The college classroom and its surrounding environment is the marketplace of ideas, and there is no new constitutional ground broken by reaffirming this Nation's dedication to safeguarding academic freedom.

Now, this amendment will simply express the sense of the House on this matter. It does not force schools to officially recognize student organizations. However, it will put Congress on record defending the rights of students who face expulsion and other severe consequences by daring to enjoy their most basic constitutional freedoms of speech and association, often off campus and on their own time.

This amendment of mine has the support of a number of organizations which reach across the political spectrum, including the Coalition for Freedom of Association, the Traditional Values Coalition, the ACLU, the National Interfraternity Conference, the U.S. Public Interest Research Group, the National Panhellenic Association, the Fraternity Executives Association, the Christian Coalition, and hundreds of local sororities and fraternities nationwide.

Mr. Chairman, our Nation has, since its inception, held that individuals have the right to associate and speak freely. In addition, our Nation has long recognized single-sex organizations, and we value their important contribution to our society. Students attending private colleges have the right to enjoy the same freedoms of association and speech that all of us hold everywhere else as American citizens. We owe it to them and to all of those who sacrifice so much for those freedoms to adopt my amendment.

Mr. Chairman, I urge the adoption of this amendment.

Mr. McKEON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON), the chairman of the Committee on Appropriations, would express the strong sense of this body that colleges and universities which accept Federal funds under the Higher Education Act should not restrict their students' rights to free speech or association, as protected under the first and the fourteenth amendments to the Constitution.

Recently, Members of this body have become concerned over efforts by some colleges and universities to restrict the actions of certain groups on these campuses. These efforts have included restrictions being placed on certain groups. In at least one instance, a school took action against students simply for wearing Greek letters on their clothing.

Throughout the reauthorization process, we have tried to reduce the regulatory burden placed on institutions of higher education, and we have attempted to avoid leveling mandates from Washington on schools. The gentleman's amendment sends a strong signal to schools which participate in programs funded under the Higher Education Act that we intend for them to honor the rights of their students under the Constitution, but it does so in a way that does not create a new mandate or pit the rights of the institution against those of the students.

Mr. Chairman, I urge a ''yes'' vote on this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 81 OFFERED BY MR. KENNEDY of massachusetts

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 81 offered by Mr. KENNEDY of Massachusetts:

At the end of the bill add the following new title:

TITLE XI—DRUG AND ALCOHOL PREVENTION

SEC. 1101. DRUG AND ALCOHOL ABUSE PREVENTION.

(a) GRANTS AND RECOGNITION AWARDS.—Section 111, as redesignated by section 101(a)(3)(E), is amended by adding at the end the following new subsections:

''(e) ALCOHOL AND DRUG ABUSE PREVENTION GRANTS.—

''(1) PROGRAM AUTHORITY.—The Secretary may make grants to institutions of higher education and consortia of such institutions and contracts with such institutions and other organizations to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and their associated violence. Such contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention which will provide training, technical assistance, evaluation, dissemination and associated services and assistance to the higher education community as defined by the Secretary and the institutions of higher education.

''(2) AWARDS.—Grants and contracts shall be made available under paragraph (1) on a competitive basis. An institution of higher education, a consortium of such institutions, or other organizations which desire to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

''(3) ADDITIONAL REQUIREMENTS.—The Secretary shall make every effort to ensure—

''(A) the equitable participation of private and public institutions of higher education (including community and junior colleges), and

''(B) the equitable geographic participation of such institutions,

in grants and contracts under paragraph (1). In the award of such grants and contracts, the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(f) NATIONAL RECOGNITION AWARDS.—

''(1) AWARDS.—For the purpose of providing models of alcohol and drug abuse prevention and education (including treatment-referral) programs in higher education and to focus national attention on exemplary alcohol and drug abuse prevention efforts, the Secretary of Education shall, on an annual basis, make 10 National Recognition Awards to institutions of higher education that have developed and implemented effective alcohol and drug abuse prevention and education programs. Such awards shall be made at a ceremony in Washington, D.C. and a document describing the programs of those who receive the awards shall be distributed nationally.

''(2) APPLICATION.—

''(A) IN GENERAL.—A national recognition award shall be made under paragraph (1) to institutions of higher education which have applied to such award. Such an application shall contain—

''(i) a clear description of the goals and objectives of the alcohol and drug abuse programs of the institution applying.

''(ii) a description of program activities that focus on alcohol and other drug policy issues, policy development, modification, or refinement, policy dissemination and implementations, and policy enforcement;

''(iii) a description of activities that encourage student and employee participation and involvement in both activity development and implementation;

''(iv) the objective criteria used to determine the effectiveness of the methods used in such programs and the means used to evaluate and improve the program efforts;

''(v) a description of special initiatives used to reduce high-risk behavior or increase low risk behavior, or both; and

''(vi) a description of coordination and networking efforts that exist in the community

in which the institution is located for purposes of such programs.

''(B) ELIGIBILITY CRITERIA.—All institutions of higher education which are two- and four-year colleges and universities that have established a drug and alcohol prevention and education program are eligible to apply for a National Recognition Award. To receive such an Award an institution of higher education must be nominated to receive it. An institution of higher education may nominate itself or be nominated by others such as professional associations or student organizations.

''(C) APPLICATION REVIEW.—The Secretary of Education shall appoint a committee to review applications submitted under subparagraph (A). The committee may include representatives of Federal departments or agencies whose programs include alcohol and drug abuse prevention and education efforts, directors or heads (or their representatives) of professional associations that focus on prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department of Education.

''(D) REVIEW CRITERIA.—Specific review criteria shall be developed by the Secretary in conjunction with the appropriate experts. In reviewing applications under subparagraph (C) the committee shall consider—

''(i) measures of effectiveness of the program of the applicant that should include changes in the campus alcohol and other drug environment or climate and changes in alcohol and other drug use before and after the initiation of the program; and

''(ii) measures of program institutionalization, including an assessment of needs of the institution, the institution's alcohol and drug policies, staff and faculty development activities, drug prevention criteria, student, faculty, and campus community involvement, and a continuation of the program after the cessation of external funding.

''(3) AUTHORIZATION.—For the implementation of the awards program under this subsection, there are authorized to be appropriated $25,000 for fiscal year 1998, $66,000 for each of the fiscal years 1999 and 2000, and $72,000 for each of the fiscal years 2001, 2002, 2003, and 2004.

(b) REPEAL.—Section 4122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7132) is repealed.

Mr. KENNEDY of Massachusetts. Mr. Chairman, again, let me thank the gentleman from Pennsylvania (Mr. GOODLING), chairman of the Committee on Education and the Workforce, and the gentleman from California (Mr. MCKEON), as well as the gentleman from Michigan (Mr. KILDEE) for their support of this amendment.

A recent Harvard study found that 95 percent of all violent crimes and 90 percent of all rapes on college campuses are alcohol-related. Alcohol on campuses is a factor in 40 percent of all academic problems, and almost one-third of all college dropouts.

This should not come as any surprise to someone who has visited a college campus lately. From the very first day of school, students are bombarded with messages and promotions and peer pressure that encourage binge drinking. Local bars aggressively promote special offers like ''ladies drink free'' or ''dollar pitchers'' or ''bladder bust.'' But, Mr. Chairman, colleges and universities around the country are trying to figure out how to deal effectively with excessive alcohol use.

There are some terrific programs that should serve as models. For example, at Northern Illinois University in the district of the gentleman from Illinois (Mr. HASTERT), binge drinking has dropped by 30 percent as a result of a program that includes alcohol-free housing. Nonetheless, we need to ensure that every college and university can offer comprehensive and effective drug and alcohol programs.

The amendment I am offering would provide grants for colleges to establish alcohol and drug treatment counseling and drug education and alcohol education. Secondly, this amendment authorizes the Secretary of Education to confer national recognition awards each year to 10 schools that successfully address alcohol and drug abuse on campus.

Binge drinking robs the best and brightest of our children's futures, their health and too often their lives. Let us give parents and students and colleges the resources they need to effectively combat alcohol and drug abuse on campus.

Mr. Chairman, as the gentleman from Michigan (Mr. KILDEE) once said to me, ''Do not keep chasing a streetcar that you are already on,'' and in that regard, I will keep my remarks short.

Mr. GOODLING. Mr. Chairman, we rise in support of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 77 OFFERED BY MRS. MEEK OF FLORIDA

Mrs. MEEK of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:.

Amendment No. 77 Offered by Mrs. MEEK of Florida:

Page 349, after line 9, insert the following:

TITLE XI—EQUAL OPPORTUNITY FOR INDIVIDUALS WITH LEARNING DISABILITIES

SEC. 1101. DEMONSTRATION PROJECTS ENSURING EQUAL OPPORTUNITY FOR INDIVIDUALS WITH LEARNING DISABILITIES.

Subpart 2 of part A of title IV, as amended by section 405, is further amended by adding at the end the following:

CHAPTER 6—DEMONSTRATION PROJECTS ENSURING EQUAL OPPORTUNITY FOR INDIVIDUALS WITH LEARNING DISABILITIES

''SEC. 412A. PROGRAM AUTHORITY.

''(a) IN GENERAL.—The Secretary may award grants to, and enter into contracts and cooperative agreements with, not more than 5 institutions of higher education that are described in section 412B for demonstration projects to develop, test, and disseminate, in accordance with section 412C, methods, techniques, and procedures for ensuring equal educational opportunity for individuals with learning disabilities in postsecondary education.

''(b) AWARD BASIS.—Grants, contracts, and cooperative agreements shall be awarded on a competitive basis.

''(c) AWARD PERIOD.—Grants, contracts, and cooperative agreements shall be awarded for a period of 3 years.

''SEC. 412B. ELIGIBLE ENTITIES.

''Entities eligible to apply for a grant, contract, or cooperative agreement under this chapter are institutions of higher education with demonstrated prior experience in meeting the postsecondary educational needs of individuals with learning disabilities.

''SEC. 412C. REQUIRED ACTIVITIES.

''A recipient of a grant, contract, or cooperative agreement under this chapter shall use the funds received under this chapter to carry out each of the following activities:

''(1) Developing or identifying innovative, effective, and efficient approaches, strategies, supports, modifications, adaptations, and accommodations that enable individuals with learning disabilities to fully participate in postsecondary education.

''(2) Synthesizing research and other information related to the provision of services to individuals with learning disabilities in postsecondary education.

''(3) Conducting training sessions for personnel from other institutions of higher education to enable them to meet the special needs of postsecondary students with learning disabilities.

''(4) Preparing and disseminating products based upon the activities described in paragraphs (1) through (3).

''(5) Coordinating findings and products from the activities described in paragraphs (1) through (4) with other similar products and findings through participation in conferences, groups, and professional networks involved in the dissemination of technical assistance and information on postsecondary education.

''SEC. 412D. PRIORITY.

''The Secretary shall ensure that, to the extent feasible, there is a national geographic distribution of grants, contracts, and cooperative agreements awarded under this chapter throughout the States, except that the Secretary may give priority, with respect to one of the grants to be awarded, to a historically Black college or university that satisfies the requirements of section 412B.

''SEC. 412E. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter $10,000,000 for each of the fiscal years 1999 through 2001.''.

Mrs. MEEK of Florida. Mr. Chairman, I thank the committees and the people who helped to bring this piece of legislation and this amendment to the floor. I want to thank the gentleman from Michigan (Mr. KILDEE); I want to thank the gentleman from California (Mr. MCKEON); and I want to thank the gentleman from Missouri (Mr. CLAY), who has sort of mentored me since I have been here; also, the gentleman from Pennsylvania (Mr. GOODLING); and of course my colleague, the gentlewoman from Kentucky (Mrs. NORTHUP) and her staff, who have been very helpful in putting this amendment together.

Mr. Chairman, what we are doing here is trying to help college students who have learning disabilities, and this amendment will bring that help to college students which now is already

being received by students in K through 12.

According to the National Institutes of Health, and I must cut this short because the gentleman from Missouri (Mr. CLAY) said they would take away the votes if I did not cut this discussion, but according to the National Institutes of Health, more than 39 million Americans have some type of learning disability. People really do not understand the impact of this disability, these disabilities.

The gentlewoman from Kentucky (Mrs. NORTHUP) and I cochair the Reading Caucus. Thanks to the gentlewoman, we are working on many of these problems, and this particular amendment, added to the Higher Education Act, will certainly focus the attention of the Nation on the need of helping college students with learning disabilities.

Many of these college students are very, very bright. They make excellent mathematicians, excellent academicians, but they do not read that well due to learning disabilities. Some of these learning disabilities are very well-known and others are not.

What we are saying here is that there are many, many things that colleges and universities can be doing, Mr. Chairman, in the area of auditory and visual kinds of learning devices, helping teachers learn how to teach these students better; being sure that the whole universe of education and higher education will understand the kinds of modalities and the types of learning techniques that can be utilized in helping these students. We feel that the Federal Government, to a great extent, is going to help in doing this by providing free and appropriate education for students who are in higher education.

Rather than break my vow, Mr. Chairman, I would like to say that when we get this in the Higher Education Act, it will mean a lot to many students. Think of them. Either we help them now, or we help them later. Many of the students who come into college with poor reading ability never get anyplace, even though they are very bright students, but because of their lack of reading ability, they have a problem.

So I appreciate so much the committee and the Members who have helped us put this together. It is a problem, and it is a modest step toward filling the gap. But we do know we are making a start here, the gentlewoman from Kentucky (Ms. NORTHUP) and I, and we are encouraged by this inclusion in the Higher Education Act.

MODIFICATION TO AMENDMENT NO. 77 OFFERED BY MRS. MEEK OF FLORIDA

Mrs. MEEK of Florida. Mr. Chairman, I ask unanimous consent to modify my amendment with the modification that is already at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification to the amendment offered by the gentlewoman from Florida (Mrs. MEEK).

The Clerk read as follows:

Modification to amendment No. 77 offered by Mrs. MEEK of Florida:

In the matter proposed to be added to the Higher Education Act of 1965 by the amendment, strike proposed section 412D and redesignate proposed section 412E as section 412D.

The CHAIRMAN pro tempore. Is there objection to the modification to the amendment offered by the gentlewoman from Florida (Mrs. MEEK)?

There was no objection.

Mr. GOODLING. Mr. Chairman, we accept the amendment of the lovely lady from Miami (Mrs. MEEK).

Mrs. NORTHUP. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to speak in favor of this amendment and to thank the gentlewoman from Florida (Mrs. MEEK) for bringing it to the attention of this body.

As the mother of six children, I understand the frustration of trying to ensure that one's child receives the very best education available. If one's child has a learning disability, we know the frustration and the hopelessness of searching for the answers to provide one's son or daughter with the tools necessary for him or her to succeed in this world.

The gentlewoman from Florida (Mrs. MEEK) and I have had an opportunity to work closely together to ensure that children that have learning disabilities have a better opportunity to receive early in their education an opportunity to learn to read and learn to read well, so that they can achieve at every level in their education.

□ 1645

But unfortunately, some children today do not receive that intervention and some children have gone through the early years of their schooling without having the opportunity to fully develop their talents in school in some areas in which they are disabled. But that does not mean that they may not be very talented and students that can do very well in college.

Many colleges have struggled with giving these children better opportunities. They have set up programs for learning disabled kids and they are struggling to help them achieve at the highest level.

What this bill does is create five demonstration projects so that schools can look to the best examples of remediation in areas that children are weak so that in areas in which they are strong they can still be high achievers. We need every talent in our workplace today. We need for every child to be able to realize their dreams and their goals and their talents.

What this bill does is make sure that those children who have special needs and special talents receive the best opportunity at higher education levels so that they can become the chemists and the teachers and the people that are leaders in their areas tomorrow.

Mr. Chairman, I want to thank the gentlewoman from Florida (Mrs. MEEK) for all the time and energy she has put into this bill. She has been a leader on it. She has brought to the attention of many people in this Congress the problem of our talented children who are in higher education that have learning disabilities.

I believe this will not only help those kids that are being educated in these five institutions, but those other institutions around the country that are looking for the best examples so that they can pattern within their schools the best ways to help kids who are talented but struggling. I think this is good for a lot of children.

Mr. Chairman, I join the gentlewoman from Florida (Mrs. MEEK) in hoping that the Department of Education will seek out an institution that primarily serves minority students, since they are disproportionately represented in this population and ensure that one of those institutions will serve as an example.

Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for his willingness to accept this amendment.

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the requisite number of words.

Unfortunately for many who suffer from a learning disability, there exists no cure. These serious impediments are a lifelong disorder for many and 15 percent of our population must learn to live with this disability. It is time that all of us as responsible Members of Congress address those 15 percent whose future in education depends on our actions here.

The amendment offered by the gentlewoman from Florida (Mrs. MEEK) and the gentlewoman from Kentucky (Mrs. NORTHUP) does just that. It will authorize the Secretary of Education to award grants, contracts, and cooperative agreements to institutions of higher education which competitively demonstrate methods, techniques and new approaches in educating students with learning disabilities.

Mr. Chairman, passing this amendment will be the first step in ensuring equal opportunities in post-secondary education for individuals with learning disabilities. Serious disorders such as dyslexia and attention hyperactivity disorder are currently affecting 2.6 million children who are diagnosed as learning disabled under the Individuals with Disabilities Education Act in elementary and secondary education.

Congress has already found that ''2 percent of all undergraduate students nationwide report having a learning disability.'' In fact, we have already recognized that different teaching strategies are needed to enable those students to develop their talents and performance up to their capabilities.

Let us help those students by passing the Meek-Northup amendment. Mr. Chairman, I also thank the gentleman from Pennsylvania (Chairman GOODLING), who has been very supportive and very cooperative on this serious issue.

Ms. BROWN of Florida. Mr. Chairman, I agree with my distinguished colleagues and

support their groundbreaking initiative to offer legislation which will provide continued support for college and university students with learning disabilities and this includes students who are attending community colleges as well.

The most recent survey of college freshmen with disabilities reported that the number of students with learning disabilities is increasing and the percentage is now at 32% for college freshmen.

These non-traditional college students deserve a chance, and we have the legislative strength to make a difference in their lives today, tomorrow, and in the future.

Support for this amendment will send a message to America, that Members of Congress care and believe education is key for our nation.

Mr. TOWNS. Mr. Chairman, I rise today in strong support of the Meek-Northup learning disabilities amendment to H.R. 6, the Higher Education Reauthorization Act.

According to the National Institute of Health, there are 39 million Americans with learning disabilities. This amendment would ensure that young people with the ability to be high achievers can accomplish their goals to be doctors, engineers, lawyers, and teachers.

While there are Federal programs to help elementary and secondary school students with learning disabilities, there are none for college students. This vital legislation authorizes $10 million a year for five demonstration projects at colleges or universities. Each institution would be responsible for developing programs, strategies, and approaches for teaching individuals with learning disabilities at the college level. It would also ensure that teachers and institutions across this nation have access to a national repository of information on teaching the learning disabled student.

As our global economy moves toward the 21st century, such efforts would create a level playing field for all children of this great nation. Our children are our future. It is our responsibility to ensure that their future is bright. There must not be any children left behind.

Mr. Speaker, I urge my colleagues to vote "YES" on the Meek-Northup amendment.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment, as modified, offered by the gentlewoman from Florida (Mrs. MEEK).

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 75 OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 75 offered by Mr. ROEMER:

At the end of the bill add the following new title:

TITLE XI—SPECIAL PROVISION

SEC. 1101. TERMINATION OF EFFECTIVENESS.

Notwithstanding section 4 of this Act, subparagraph (K) of section 485(g)(1) of the Higher Education Act of 1965, as amended by this Act, shall cease to be effective on October 1, 1998.

The CHAIRMAN pro tempore. Pursuant to the order of the Committee of today, the gentleman from Indiana (Mr. ROEMER) and the gentleman from Illinois (Mr. HASTERT) each will control 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I offer this amendment in a bipartisan spirit with the gentleman from California (Mr. RIGGS), my friend, and I offer it to eliminate language in the bill that is a Federal mandate to our colleges and universities that is an intrusion into the way they conduct their business on a day-to-day basis and micromanages from Washington, D.C. schools across the country telling them how they should run their sports programs.

Now, we have heard constantly through the last couple of years that Washington, D.C. does not know best. Why is there language in this bill telling colleges and universities throughout the country the Washington way of running their sports programs?

Now, I encourage my colleagues and their staffs to read the language in the bill on page 246, and I quote from that language:

> We are requiring in this language a statement of any reduction that may or is likely to occur during the next four academic years in the number of athletes that will be permitted to participate in any collegiate sport or in the financial resources that the institution will make available to any such sport, and the reasons for any such reduction.

So we are saying they have to tell the Federal Government any reduction that may or it may be likely to occur and the reasons for that reduction.

Mr. Chairman, we have received letters from all over the country from universities and colleges from all over the country saying this is a Federal mandate. We do not want this language in the bill. We have received letters from the National Collegiate Athletic Association that I will enter into the RECORD. This says from the NCAA, and I quote, "this provision represents an unparalleled federal intrusion into the decision-making process of our nation's colleges and universities." An unparalleled Federal intrusion.

Now, I have, however, even with all of this, I have, I think, some understanding of why the language was put in the bill. When athletes and scholars at universities enroll in a university and then that wrestling program or that swimming program may be canceled, that leaves that scholar and that athlete in a very untenable situation and I have sympathy for that. But it is not sweeping the country. It is not something that is causing athletic departments and schools to shut down. And I point to the graph on my right where we have had a steady growth in the number of both men and women's programs, each of the ensuing academic years, more women participating, more men participating.

In addition to that, Mr. Chairman, here in 1996 and 1997, the number of programs added in that academic year in men and women's programs, added, 360 programs; dropped, 114. Added 360, dropped 114. Again, a steady growth in the number of men and women participating.

So I think that the need for this amendment is just simply not there. I empathize and I sympathize with those athletes at schools that close or shut down a particular athletic program. But the Federal Government should not be telling each and every university in the country you have got to do a four-year report ahead of time if it is likely or may occur. I do not think that that is the way we should be running this country with a Federal mandate. I strongly oppose that.

Mr. Chairman, I said I offered this in the spirit of bipartisanship with the gentleman from California (Mr. RIGGS), my friend. I offer this in the spirit of arguing against micromanaging our programs, against Federal intrusion, against "Washington knows best" and telling Indiana, Kentucky, California, Florida, Connecticut, telling all of those States and all of those schools how they should report to the Federal Government.

But, Mr. Chairman, I think one of the most compelling arguments is this. When we take the serious step in this country of shutting down a plant and employees lose their job, there is a 30-day notice for those employees that may lose their job. In this bill this language requires 4 years, 4 years ahead of time if colleges are thinking of changing an athletic program.

This is the higher education bill. We do not even say in this bill if they are going to shut down a French program, an abroad study program, or a mathematics computer program that they have to report to the Federal Government. But in this bill we say if they are thinking about canceling an athletic program they better report it. They better report it.

Mr. Chairman, we did the Contract for America and everything in that bill said, "No more Federal mandates." I encourage my colleagues to vote to strike this Federal mandate out of this bill.

Mr. Chairman, I include for the RECORD the letter from the NCAA referred to earlier.

THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,
Washington, DC, April 28, 1998.

DEAR MEMBER OF CONGRESS: On behalf of the 933 NCAA member colleges and universities, I am writing to urge your support for an amendment to be offered by Representatives Riggs and Roemer to the Higher Education Act Amendments of 1998 (H.R. 6). The Riggs/Roemer amendment will strike a provision that was recently added by the Committee on Education and the Workforce related to institutional program decisions, specifically in the area of college athletics programs.

The provision of H.R. 6 would require all postsecondary institutions to report annually any changes that "may or are likely to occur" in any intramural or intercollegiate athletics program over the next four years and justify the decision. This provision was added without the benefit of hearings, discussion with the Committee's members or

consultation with the higher education community. In order for institutions to continue to be eligible for federal student assistance, the provision requires the impossible—it asks institutions to predict the future. In addition, this provision represents an unparalleled federal intrusion into the decision-making process of our nation's colleges and universities.

NCAA member colleges and universities have added thousands of sports teams for men and women over the past 20 years. During the same time period, relatively few teams have been dropped. When a sports team is dropped, the welfare of the student-athlete is the first priority. Although the sponsors of the provision may have well-intended motives, this provision will have the unintended consequence of actually hastening the elimination of the very men's non-revenue sports it is intended to protect. By placing them on a list for possible elimination, it will serve as an early death notice to those teams.

The NCAA urges you to support the Riggs/Roemer amendment related to collegiate sports teams. Please contact Doris Dixon, NCAA director of federal relations (202–293–3050), if you have any questions about this provision or the NCAA's position.

Sincerely,

CEDRIC W. DEMPSEY.

Enclosure.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume.

(Mr. HASTERT asked and was given permission to revise and extend his remarks.)

Mr. HASTERT. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana (Mr. ROEMER).

Mr. Chairman, it is interesting to listen to rhetoric. In fact, we need to understand what this provision in the bill really does. It is one of the foundations of our educational system that our kids should be taught the difference between right and wrong. Should we not teach our kids to be honest and forthright? And should we not teach our kids that rules apply equally to everyone?

Answering these questions is what today's debate and the Roemer amendment is all about. The Roemer amendment says that it is basically okay for colleges and universities not to tell prospective students that they plan to eliminate or reduce the funding for sports programs that kids plan to participate in once they enroll.

Mr. Chairman, I view this as a matter of honesty and simple fairness. I would ask anyone, should schools be able to hide from students the fact that they are planning to terminate their competitive sport, a sport that weighed heavily in their life decision about which school they should attend in the first place? And let me be clear, nothing in this provision prevents schools from eliminating sports programs nor does it require them to give 4-years' notice before they do so. I repeat, it does not require them to give 4-years' notice before they do so.

All this language requires is that once a school knows it is going to eliminate a team, they must notify the affected athletes by giving notice; not notice to the Federal Government, just notice in a yearly report.

□ 1700

In effect, this notification could take place 1 or 2 or 3 years before the actual termination. The key point is, once they decide, they need to disclose.

Colleges and universities enjoy a special position in this country. As parents, we entrust them with the education of our children. In return, we should expect that they act in a manner that justifies this trust, and that certainly does not include making decisions which affect our kids' lives without honestly disclosing those decisions to them.

I, for myself, cannot believe that Congress will send the message to college students that it is all right for schools to knowingly not tell them and the athletes and students and prospective students about the status of the sport which they care about. If we allow this to happen, it would certainly send the wrong message that right and wrong does not apply if you are a college or a university.

Mr. Chairman, in 2 short years, between 1994 and 1996, nearly 200 colleges and universities canceled sports programs. That is thousands of kids who will never again have the opportunity to participate at the collegiate level, opportunities that many of us once enjoyed.

I wonder how many of the kids who played on these teams were warned that their teams were slated for elimination? I wonder if any of them would have chosen a different school if they had known in advance that the school was planning to drop their sport?

Many universities are doing the right thing, and I applaud them. But in some cases, the affected students are the last to know about the plans to drop their team.

Mr. Chairman, let me tell my colleagues about the experiences of Scott Gonyo and his teammates. In 1993, Drake University decided to eliminate one of its, not a major sport, so it was either wrestling or track or soccer or swimming. When they eliminated their teams in 1993, did the school take the time to notify the team that they were being dropped? No. Did the athletic director take the time to notify them of the cancellation of their sport? No. Scott Gonyo and his teammates found out when the members of the media called them for reaction.

I do not know about anyone else, but I think this sends a terrible message about how some colleges and universities are treating the very kids they are supposed to serve.

What the Roemer amendment seeks to strike from this bill is the right of students to be informed about decisions which affect their lives, and that is all. We all know that kids and parents consider a number of factors before deciding which school to attend. Among these factors is the ability to participate in sports, for some students.

I cannot believe that anyone would support a college's effort to keep pertinent information out of a student's hands. The fact that a school has decided to drop a sport is important information that kids and parents have a right to know before they decide which college they invest their time and their talents in.

I would certainly prefer that the NCAA deal with this matter by seeking the voluntary cooperation of their member institutions. In my office last week, I met with representatives of the American Council on Education, ACE, the NCAA, and the small colleges. We agreed in that meeting that I would support removal of this provision in conference if the NCAA would simply urge members to embrace voluntary notification requirements.

The next day, I received a letter from the president of the NCAA, the ACE, confirming that agreement, and was prepared to come to the floor and enter into a colloquy with the distinguished Member from California (Mr. MCKEON) to that effect. But sadly, on Tuesday I received a letter from the NCAA actually breaking the deal. They simply want this Congress to go away and let them do whatever they please.

Mr. Chairman, if the NCAA were a real estate agent trying to sell a house without disclosing leaky roofs or a used car salesman trying to sell flood-damaged cars without disclosure to the consumers, I dare say colleagues on both sides of the aisle would demand action.

A college education is one of the most important purchases any student and their parents will ever make. What is wrong with asking these universities and NCAA to simply tell the truth?

A ''yes'' vote on this amendment is a vote against kids knowing what their future will be and the families' right to know. I urge my colleagues to defeat the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from the State of California (Mr. DOOLEY).

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Chairman, as Members of Congress, we are constantly asked to make decisions on what is the appropriate role of the Federal Government. Today I rise in support of the Roemer amendment because I think it is absolutely clear that the Federal Government has no role in mandating and micromanaging the affairs of the universities and the higher institutions of education in our country.

I find it ludicrous that we would even ask our universities, and by imposing on them a mandate, that they would have to notify people 4 years in advance of a decision that they might have to make in order to eliminate or reduce an athletic program.

This provision is absolutely insane in that it is, in fact, going to reduce the

ability of our universities to allocate their resources, to ensure that they are going to be investing those funds in the most cost-effective manner.

We would be hamstringing the board of regents in California and the admission of our universities that have been appointed to make the decision to ensure that they can create the academic experience and the college experience which is in the best interest of the students that are going to be attending.

As I was listening to the last speaker, I thought it was somewhat interesting that he feels it so important that we provide students and families with the information about a potential reduction in an athletic program, but there is absolutely no attention being given to a potential decision that might result in the reduction of an academic program.

I also find it somewhat ironic that many of the people who are some of the strongest proponents of asking for this 4-year notification were some of the same people that were opposed to giving the working men and women of this country a 30-day notification of a potential plant closure.

When we have working men and women and their families whose livelihoods, whose ability to keep a roof over their heads, whose ability to provide food for their families, when we are opposed to giving them 30 days' notification, and yet we think it is appropriate to give 4 years' notification on a university decision to reduce an athletic program, that is just wrong and it is irresponsible.

Mr. HASTERT. Mr. Chairman, I yield as much time as she may consume to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Chairman, I rise to speak against this amendment. First of all, I think it is so amazing that the people that are sponsoring this amendment wish to talk about mandates on colleges and universities across this country. The fact is, almost all decisions being made about college sports today have everything to do with the Department of Education interfering and mandating on colleges about what sports requirements they are under. This is not something that will be initiated; this is something that is going on right now.

We all believe that sports are great for women and for men that are in college. They serve a wonderful purpose. They provide these young people, first of all, an opportunity for scholarships, provide many of them an opportunity at institutions of education that they would not have if they were not able to receive these athletic scholarships. It also gives them an opportunity to compete on a higher level.

Many of these students are very talented in athletics. Many will have opportunities to use these talents in other arenas. They go on and become our Olympic stars. They go on and compete internationally. They represent this country around the world. Many of them have careers if professional careers are available in their sports.

Those opportunities are growing for women, as they have been for men for many years. That is all great, and a great opportunity for some very talented young people in this country.

Athletics also teach us a lot of other things. It teaches kids about hard work. It teaches kids about sportsmanship. It teaches kids about learning to lose and to start over again, to pick themselves up when they are down. Those are lessons that help all of us for all of our lives. So when we look at athletics, I am thrilled to see colleges looking for the best ways to provide the most opportunities for the most students.

Because of the Department of Education's accelerated or new pressure that they are applying on many athletic programs, there are an increased number of programs that are being jeopardized today. Many times, because the colleges have little time to act, they are being forced to eliminate men's teams and to add women's teams in order to try to equalize the opportunities.

All of us applaud the new opportunities for women. It has made a wonderful difference in a couple of my daughter's lives.

It has not made such a wonderful difference in my son's life, though. This year he is a junior in college. He is a champion swimmer. At one point, he was the second fastest swimmer in the butterfly in the country. Next year, it looks as though his school may not have swimming, so he loses his opportunity to ever go on and an opportunity to ever be the top in the country, ever be in the Olympics.

So why does he not go to the another school? Because all of his credits are in one school. He loves that school. He has invested a lot of time, a lot of energy, a lot of effort in that team. The fact is that that school has no time to adjust because of the Department of Education.

I am so sorry that our colleagues that are sponsoring this bill are not screaming about that sort of intrusion in colleges today. If we had a little more time, we could probably grow better women's sports opportunities and not endanger men's sports. But since we have this intrusion that exists today, and because nobody on the other side has talked about that, I think it is better, very important to understand why some teams are being eliminated.

In the meantime, what my colleague is proposing is that students who are trapped at a school, who love that school dearly, they at least be informed as early as the school knows that it is about to drop a particular sport. That is the least we can do so that they have an opportunity to consider what this means in their lives, so that they have an opportunity to fulfill their talents and their dreams, even if changing schools is the only way to do it.

This is, by no means, criticism of my son's school. They have treated him more than fairly, informed the students on that team of the crushing news that they are going to drop swimming next year.

I think it is important that this body know that just 4 years ago, they built a $14 million swimming and athletic complex to accommodate this team that now they are being forced to drop. Is that a waste or what? What does the Department of Education think about that?

In the meantime, let us leave the language in the bill. Let us get this bill to the conference committee. Let us see if between the Senate and the House we can figure out a way to make things better for all women athletes and all men athletes.

Mr. ROEMER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Palo Alto, California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I would like to start out today obviously in strong support of the Roemer amendment, a proposal to restore the ability of colleges and universities to carefully design and budget their own athletic programs.

I would like to add this for the record, because some of my colleagues on the other side of this issue are talking about NCAA sports: In 1996–1997, this represents men's and women's sports. I do not know where all of this is coming from of what has been dropped. Look at what has been added, 360, this is what has been dropped. I think that this is a very provocative number and something that our colleagues should pay close attention to.

Without the Roemer amendment, H.R. 6 would force institutions to make irrevocable decisions about which programs will receive funding far in advance of current requirements. The Roemer amendment strikes a provision which represents, in unparalleled Federal intrusion, Federal micromanagement and Federal mandates.

The NCAA supports this amendment. Their statistics further reveal that the original provision is unnecessary. I am very, very proud to represent Stanford University whose outstanding academic and athletic accomplishments can be matched by few.

The university sponsors 17 varsity women's sports, and their list of championships is stunning. National volleyball champions 3 of the last 4 years, national tennis championships 10 times in the last 20 years. In 20 years, the varsity women's swimming, they have won eight national titles.

The Stanford women's basketball team has been in the final four six times in the 1990s and national champions in 1991 and 1992. Stanford's record offers compelling proof that women's success does not harm a college's athletic program.

□ 1715

Is the Congress going to require that universities and colleges submit to us

in a report as to whether they are going to drop their Japanese overseas programming? This is ludicrous. This is not being applied to anything that is academic but only that which is athletic.

The Roemer amendment would ensure that Stanford University and the rest of our Nation's colleges and universities have the necessary flexibility to continue to develop such strong athletic and academic programs free of Federal intrusion, free of Federal micromanagement, and free of Federal mandates. I urge my colleagues on both sides of the aisle to vote for the Roemer amendment.

Mr. HASTERT. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to say, Mr. Chairman, that the previous speaker spoke about the rise of women's sports. And as the father of two daughters, and someone who enjoys watching my girls participate in soccer, basketball, or whatever, I am glad that there will be a lot more opportunities for them. But I also want to say, as I look at this bill, this is not a matter of what is convenient for Stanford University or for the University of Virginia or the University of Georgia or Berkeley or whatever. This is a matter of putting the kids before the system, putting the kids before the faceless institution.

Think about the private sector a minute. We have so many people in our body who talk about disclosure in all aspects of the private sector; worker safety, materials used on job sites, what we eat, what is in the water. Whatever it is. What is in the air. What is being discharged. All of this has to be disclosed, and yet this body, who so readily puts such disclosure mandates on the private sector, now has Members saying let us not put that on the public sector.

What is this horrible mandate that we are putting on the public sector? And let me clarify, it is not all public universities. There are private universities. But most of them get some sort of Federal funding in one place or another. Think about this, though. Here is a student who is 17, 18 years old; young boy or girl. They are going off to college. They have worked real hard to get in the school of their choice. Maybe they are going to play baseball, maybe wrestling, maybe lacrosse, maybe swimming, maybe volleyball. They have that opportunity and they are excited about it. And then they get there and find out that they are phasing out the volleyball program or the wrestling program. That was one reason that student chose university A over university B. And now we are saying that our kids are not important enough just to tell them that?

Somebody had said, well, we cannot give them a 4-year warning. If my colleagues will read the Hastert proposal, what he is saying is all they have to do is notify the students once they make the decision to phase out a certain athletic program.

This, as I said, maybe it is not pro-university, maybe it is not pro-institution, maybe it is not pro-system, but it does become pro-child, pro-student, pro-athlete and, therefore, I think it is pro-sports.

The gentlewoman from Kentucky (Mrs. NORTHUP) talked with great pride about what sports meant to her six children, and the positive impact that sports programs can have to all of our children is very, very important. So why not be fair to America's kids; that if they enroll in a college or a university that has a sports program, should they not be notified when the college or university has made the decision to phase out that program? That is the only thing that the gentleman from Illinois is trying to get in the bill.

I urge my colleagues to vote against the Roemer amendment and vote for the children of the United States of America.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from the State of Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time, and I do rise in support of his amendment.

I have a lot of sympathy with what the gentleman from Illinois (Mr. HASTERT) is trying to do, and I have a lot of sympathy for those who played sports through high school and college. I did a little bit. I was not very good, but it was a great thing to do.

I have listened to what others have said, but I do not know why we are getting involved with this and, hopefully, we can work it out some other way. I do not think this should be in our legislation, and I think the Roemer amendment should pass.

For example, what if a college changes its academic courses? Do they have to give 4 years' notice of that, if someone is majoring in something? What if a college like mine becomes coeducational in the middle of it all? Is that something we should have to give notice for? My college got rid of fraternities. Believe me, fraternities were big deals at Hamilton College when I went there, and that was a major change, but nobody had to give notice then.

A lot of things happen in colleges, and I do not think that we should be out there interfering with their right to govern themselves. As a matter of fact, I would think that would be a Republican principle that we would want to follow; that we should simply let them make their own decisions.

I have read the language of this, which is part of the Student Right to Know Act, and it states: ''A statement of any reduction that may or is likely to occur during the ensuing 4 academic years and the number of athletes that will be permitted to participate in any collegiate sport or in the financial resources that the institution will make available to any such sport and the reasons for any such reduction.'' That is a tremendous burden and requirement to place on our colleges. I happen to think it goes too far. The gentleman from Illinois and I have talked about this.

I have heard from the University of Delaware president. Used to be president of the University of Kentucky. And David Roselle writes and says,

> It is demeaning for the Congress of the United States to be mucking about in the management of intercollegiate athletics.

I happen to totally agree with that particular statement.

Why are we getting involved in micromanaging decisions at the college and university level? Do we not have better things to do here in this Congress?

And then he went on to make the point,

> Schools simply do not know, and neither does the Congress, what forces will come into play in the next 4 years that would make program reductions on campus both necessary and appropriate.

Again, I could not agree more with that particular point. It absolutely hits the nail on the head. Four years is a long time.

I think for all these reasons, while the intent is good, this is not good to have in this legislation. We ought to take it out and we should pass the Roemer amendment.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume to remind my good friend from Delaware that the language says anytime within that 4-year period. So the interpretation is if they decide in 1 year, or 2 years, or 3 years, or 4 years, whenever that decision is, they just ought to come forward and let kids know.

It does not say they cannot do this. It does not restrict them in any way. It just says there should be notice given, not a restriction of the Federal Government. And this is really kind of a red herring to cross this path. We are just saying notice ought to be given.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. CLEMENT), a former university president who will speak to this issue.

Mr. CLEMENT. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise today in strong support of the Roemer-Riggs amendment to H.R. 6. The Roemer-Riggs amendment would eliminate the bill's language requiring higher education institutions to report 4 years in advance the planned elimination of college sports.

Schools in my district have expressed their concern that the bill's current language poses an overreaching Federal intrusion in the way they operate their sports programs. As a former college president, I understand the importance of long-range planning, but it is

just that; planning. Who knows what new budget constraints might face a school from year to year? Forcing colleges and universities to formulate such far-reaching micromanaging of the athletic policies is simply shortsighted and surely not in the best interest of our colleges and universities.

The chairman of the Committee on Education and the Workforce, the gentleman from Pennsylvania (Mr. GOODLING), got a letter not long ago from the president of Belmont University, which happens to be in my Congressional District in Nashville, Tennessee. Dr. Troutt, who also had the opportunity to serve as chairman of the National Commission on the Cost of Higher Education, says this, and he says it so well:

This type of congressional action is inconsistent with the commission's recommendations that colleges intensify their efforts to control costs and increase institutional productivity. Because the commission stressed the need for colleges and universities to consider questions of cost effectiveness and efficiency within academic programs, it would be inappropriate for Congress to ask schools to exempt sports programs from similar rigorous scrutiny. I recommend you eliminate this or any other related provision.

That is why we all need to join forces and I encourage a ''yes'' vote on the Roemer-Riggs amendment and firm support for our Nation's colleges and universities.

Mr. Chairman, I provide for the RECORD a copy of the letter I just referred to.

OFFICE OF THE PRESIDENT,
BELMONT UNIVERSITY,
Nashville, TN, April 24, 1998.

WILLIAM F. GOODLING,
Chairman, House Committee on Education and the Work Force, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GOODLING: As you know, I was privileged to serve as the Chair of The National Commission on the Cost of Higher Education. Although we completed our work and submitted our final report to Congress in January of this year, I continue to work hard to ensure that college presidents throughout the nation take the Commission's recommendations seriously. I am pleased to report that many institutions have committed to redoubling their efforts to keep college affordable for all Americans.

I am also following with interest Congress' reauthorization of the Higher Education Act. Both the House and Senate authorizing committees have reported fine bills that deserve support. However, I would like to bring to your attention several issues that are of particular interest to me as former Chair of the Cost Commission. I hope you will find these comments useful as you proceed in the process of putting final legislation together.

1. INFORMATION ON COLLEGE COSTS

One of the strong messages that the Cost Commission sought to communicate is the need for greater clarity about the basic financial structure of colleges and universities. University administrators need better data to guide their efforts to contain costs; the public needs better data to make informed choices about obtaining a college education; and policymakers at all levels need better data as they make basic decisions regarding student aid, and regulation and oversight of the nation's colleges and universities. I am pleased that both the House and Senate bills have added provisions to their reauthorization bills that recognize the importance of achieving greater financial transparency. Based on our experiences in attempting to gather and analyze data for the Commission, however, I would caution against expanding unduly the government's role in the information-clarification process. To the extent that the Senate bill assumes a more limited and focused approach, I think it is the stronger of the two measures. The process of developing a better understanding of university finance includes, but is not limited to, improved reporting to the federal government, beginning with consistent definitions of cost, price, and subsidy. The Commission, therefore, recommended measures to strengthen IPEDS reporting and improve analysis by the Department of Education of the relationship between tuition and institutional expenditures. But we also took pains to make clear that much of the clarification and communication that needs to take place should take place through existing non-governmental channels—between institutions and their constituent families and students directly, through a public awareness campaign sponsored by the higher education community, through national accounting standards bodies such as FASB (the Financial Accounting Standards Board) and GASB (the Government Accounting Standards Board), and through the reports and handbooks that are already widely distributed in the higher education ''market.''

Both the House and Senate bills adopt our recommendation that IPEDS reporting be strengthened. To the extent that the House bill goes beyond this and directs the Secretary to develop a uniform cost reporting methodology outside of IPEDS, I would question whether that is a productive step to take. If any such effort is undertaken, it should involve extensive, formal consultation with the higher education community. Likewise, I question seriously the wisdom of asking the General Accounting Office annually to recapitulate the comprehensive study that the Commission was asked to conduct on a one-time basis. As our report indicates, we were not able to obtain meaningful data in many of the categories listed as the focus of an annual GAO report in the House bill. Under the circumstances, I would urge Congress to focus on improving the data through an NCES study, as recommended in the Senate bill.

Whatever the process for developing improved reporting, I urge you to consider two substantive points in particular. Any redesign of reporting categories should include the replacement value of capital assets, as the level of an institution's general subsidy cannot be calculated without taking that into account. Equally important, Congress should not impose a requirement that the cost of educating graduates and undergraduates be counted separately. Any such disaggregation would be completely arbitrary, inaccurate, and destructive of the organic education process that occurs on campuses where undergraduates and graduates are taught together.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume to ask the gentleman from Tennessee a question. I have great respect for the gentleman from Tennessee and I would ask him if this was a decision that was made in a year, or 2 years, or maybe 4 years, up to 4 years, and the gentleman had students at the University of Tennessee, or some other university, would it not be proper to notify those students when that decision was made to drop the sport? It would not mean the gentleman would have to hold that sport.

Mr. CLEMENT. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Tennessee.

Mr. CLEMENT. I tell the gentleman that I was at a small college university and I had a tough time balancing that budget. If the gentleman were to put me in a stringent situation such as that, where I had to look 4 years out, and I could not adjust my budget, the gentleman would put me in a terrible predicament.

Mr. HASTERT. Reclaiming my time, Mr. Chairman, the bill does not say 4 years. Whenever the gentleman makes the decision, up to 4 years. So if the gentleman were to do it 6 months from now or 1 year from now, 2 years from now, or 3 years from now, all I am saying is when the gentleman were to make that decision, is it not fair to notify that student that the gentleman or school has made that decision?

Mr. CLEMENT. If the gentleman will continue to yield, I would say to him that I love sports, but I think we are sending our students for academic purposes more than we are sports. That is the paramount importance.

Mr. HASTERT. Mr. Chairman, I appreciate the gentleman's statement, but the fact is a lot of kids make that life decision on where they go to school based on things like athletics and other extracurricular activities. Here we are looking at athletics, but that is a major decision on young men and young women when they decide to go to school. If they made that decision based on that premise, then they should be notified of that decision or if that premise is going to change.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), a valuable member of the Committee on Education and the Workforce.

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of the Roemer amendment.

These new requirements are misguided at best. I ask the gentleman on the other side of the aisle if a college does not drop a particular course if not enough people have enrolled in it after people have already started their school year?

The reporting requirements added in H.R. 6 are nonsense. Hearings in the Committee on Education and the Workforce have clearly shown that men's minor college sports do not need this protection. Not only are reporting requirements not needed, they also will not work.

Dr. Ruben Arminana, the president of Sonoma State University in my district, tells me that these requirements will have just the opposite effect.

President Arminana says that by forcing colleges to announce 4 years in advance when they plan to reduce or eliminate funds for a sport, we will restrict a school's flexibility in decision-making.

I quote President Arminana's response to this provision. He said:

> Sports teams will suffer irreparable damage, and institutions will be unable to retain the program should circumstances change at a later date.

These reporting requirements place unreasonable and inappropriate demands on institutions of higher education. It is an unwarranted Federal intrusion in college and university affairs and ignores efforts to curb college costs. Colleges and universities do not budget for 4-year cycles, they budget 1 year at a time. They need the flexibility to make decisions that are in the best interests of their students and campuses that year.

Who are we, here in this Congress, to insist that colleges justify their budget decisions to us?

□ 1730

Mr. Chairman, I urge my colleagues to vote for the Roemer amendment.

Mr. HASTERT. Mr. Chairman, how much time is remaining?

The CHAIRMAN pro tempore (Mr. EWING). The gentleman from Illinois (Mr. HASTERT) has 11½ minutes remaining. The gentleman from Indiana (Mr. ROEMER) has 13½ minutes remaining.

Mr. HASTERT. Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to my very good friend, the gentleman from the State of New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, I thank my friend and classmate, the gentleman from Indiana, for yielding. I rise in support of the Roemer amendment.

Tomorrow, my 5-year-old daughter Jacqueline is going to enroll for kindergarten, and when my wife and I look at the cost of paying for an education, we really have our fingers crossed that some day she will earn an athletic scholarship to play lacrosse or soccer or field hockey or some other sport. We are going to need it.

The day that her mother started college, there were far fewer opportunities for women to play intercollegiate sports. When her grandmother was growing up, very few women went to college at all. There has been a lot of progress in opportunities for women over the years, and I believe that we should do nothing to turn back the clock on that progress. It is very important that we reaffirm our support for title IX, as I believe this amendment does.

I also believe that no one on the other side of this question wants to downgrade women's sports, and I understand that. I believe that we have gotten in an unfortunate box where, somehow or another, we believe that we are choosing between men and women in intercollegiate sports opportunities, and we should not.

I happen to believe that the record does show, particularly in the case of some sports like men's wrestling, that there have been some unjustifiable decisions made that have hurt student athletes. And I, for one, am looking for a tool to try and remedy those injustices.

With all due respect to its author, who I know is very well-advised and well-intentioned, I do not believe this is the right tool because of the expanded time window that is in it. I do share his conviction, however, that there ought to be some guarantee that before an institution chooses to terminate a sport that it ought to say exactly how much money it is going to save, justify those numbers so that the dynamic of the campus-based, decision-making community can look at that argument and see whether it is true or false.

So I will support the Roemer amendment tonight, but I will offer my willingness to cooperate in trying to find a way to resolve this very serious problem.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume.

It is interesting from time to time to take the floor. We try to reason out an issue and we try to decipher what is right and what is wrong, what is right and wrong for kids, what is right and wrong for our system of education, whether it be private or public, and what is the best course to take. And usually the common denominator when it comes down to it, especially in the area of education, is what is right for kids.

I appreciate the gentleman on the other side, because easily we try to get into a battle between men's sports and women's sports. That certainly is not my intent, and that is not the intent of this legislation. What we really want to do is to treat kids fairly.

Let me say that in my experience, and as most people know, I spent 16 years as a public school teacher and a coach, and before that participated in football and wrestling and other sports both in high school and college, part of probably the opportunity to participate in athletics gave me the opportunity to get out from behind stoves of a restaurant or behind the dishwasher because it gave me an opportunity to participate, it gave me a little help along the way.

I was in a private school; that was not a lot of glory, was not a lot of headlines. And contrary to my good friend, the gentleman from Michigan (Mr. BONIOR), the whip over on the other side, I was not a quarterback, I was just in the line. So I did not get any glory at all. But it changed my life and it put me in public education, certainly something I did not intend when I was in high school, but the opportunity to do that.

Now, today when I go back to a State tournament in Illinois and I look down on the floor of the tournament and I see coaches there that graduated from Southern Illinois University or graduated from Illinois State University or graduated from Western Illinois University. Those guys were never stars, they were never the quarterbacks, they were never the national champions, but they are guys or men at that time that pursued the sport because they loved the sport, and that sport changed their lives and they became teachers and coaches and people who have participated and have provided generations of leadership for young people who certainly need that leadership.

Also, I, as my colleagues know, have tried to take the lead in some areas on drug issues. One of the things, I met with the mayor of Chicago and the new superintendent of schools for the City of Chicago, and he says, ''We cannot find enough people to be the role models for these kids.''

One of the new innovations that they have done there and I think has been somewhat successful is to take students who are at risk, students that are ready to be bounced out of the public school system and keep them after school from 3:00 in the afternoon until 6:00 in the afternoon. Instead of suspending those kids, they have decided to keep those kids on Saturday instead of turning them loose on the streets.

What they found out is that the incidence of success for those kids has increased, but they also have found out that the crime rate has gone down because the crime rate was after school. The highest incidence of teenage crime was the hours right after school and on Saturdays. So they have given those kids direction.

Do my colleagues know who they depend on? They depend on the coaches to come in, the people who have the ability to be the role models, the people who have the ability to connect with these kids. They are not just exclusively coaches. Some of them are science teachers and some are art teachers, and some of them are English teachers. But they have given those kids hope.

What we do and what has happened, and I have seen the charts up here; the story is, though, the people who have gained are women's sports, and that is great. The sports that have lost are men's sports. Two hundred universities across this country in 1996 and 1997 have dropped sports; almost all of those sports are men's sports. We are just saying, if they are going to do that, give those kids a chance to reclaim their lives, give those kids a chance to find another university or another program to get into if that is their wish.

Now, we are not saying we cannot do it. I understand certainly the constraints of universities and colleges. I know the budget problems. I know that

we do not want extra interference from the Federal Government in these schools. But we are just saying, give these kids a chance. If they are going to drop the program, let them know. Give them a chance to change.

Last week we had the roll-out of the For a Drug-Free America Act. That was an interesting experience. But one of the most interesting speakers that we had was a young lady from northern Illinois who was the goalie on the women's hockey team that won the gold medal in Nagano. The young lady is a premed student at Dartmouth University. She took 2 years out of her training to take the challenge to try to make the Olympic team. She did that.

She had a great message for the kids of this Nation. The message is, ''You can do anything you want with your life. You can do anything you want. If you put your mind to it and your will to it, you can do it.'' But do my colleagues know what? She also had a great message that ''If you get messed up with drugs, it probably is going to negate that.'' We need to have people's messages out there for our kids.

Do my colleagues know where she got her experience? She was the only girl on the men's hockey team that won the State championship in Illinois, but she earned that spot. The next year, that hockey team was no longer a school sport.

I am saying, when we take those opportunities for kids to excel, to try and reach out and get their dreams and some may be to be an Olympic champion or to be a State champion or to be a coach, when we drop those programs, we take away generations of leadership, leadership that we need to help our kids, boys and girls, to help our future, and to set the tone of what this country should be about.

All I am saying in this amendment, in this notice, is that if we are going to take that opportunity away from those kids, tell them, tell them on a timely basis. If it is 4 years ahead of time that decision is made, tell them in 4 years. If it is 3 years, tell them in 3 years. If it is 2 years, tell them in 2 years. If it is 1 year, tell them in 1 year. Give them a chance to make their own decision and to follow their goal in life.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, how much time is remaining?

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. ROEMER) has 11½ minutes remaining. The gentleman from Illinois (Mr. HASTERT) has 4 minutes remaining.

Mr. ROEMER. Mr. Chairman, I yield myself such time as I may consume.

I would just say that the gentleman from Illinois has given a very eloquent and passionate statement about mentoring and after-school programs and leadership programs for children, but not a Federal mandate or intrusion into our sports programs on the part of Washington to every university in the country.

Mr. Chairman, I yield 1¼ minutes to the gentlewoman from Maryland (Mrs. MORELLA).

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. Mr. Chairman, I rise in support of the Roemer-Riggs amendment.

I think it would be an almost impossible challenge and task for universities and institutions of higher learning to be required to predict 4 years in advance changes that might be anticipated in their athletic program. We have enough problems here in Congress in trying to predict what is going to happen next year.

Under the provision in the bill that has been included in H.R. 6, schools could lose their eligibility to receive Pell grants and higher education loans if they fail to predict and justify their decisions. This provision is intrusive, as has been mentioned, and I think it goes way beyond the limits of the Federal role in the development of higher education policy.

In addition to the absurdity of having to prophesy future changes, I am also concerned that this provision would tend to weaken title IX. And I am concerned that this reporting requirement will lead colleges and universities to blame reductions in men's nonrevenue sports, such as wrestling, on compliance with title IX.

I wanted to say, I also introduced that goalie and I introduced the captain of that winning hockey team in my district, and we were very proud of what they have done. And the gentleman from Illinois (Mr. HASTERT) is quite correct, but I just want to emphasize, the ultimate goal of title IX is to provide equal opportunities for boys as well as girls, men as well as women, and this is what we should do.

Mr. HASTERT. Mr. Chairman, I yield myself 1 minute.

I would like to remind the gentlewoman from Maryland (Mrs. MORELLA), a good friend of mine, I think, that there is no penalty in this bill. It does not take away or threaten universities with their Pell grants or anything.

There is no penalty in the bill. It just says, within a period of 4 years, up to 4 years, that if they decide in 4 years or 3 years or 2 years or 1 year or 6 months from now that they are going to do away with a sport, they ought to tell the kids they are going to do that so they have some time to plan.

So I understand that this is the understanding that my colleague has. It is wrong. We do not take away. There are no penalties in this bill. That is how benign this is. We are just saying, give kids a chance.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. DAVIS), the very talented freshman.

□ 1745

Mr. DAVIS of Florida. Mr. Chairman, I rise in support of the Riggs-Roemer amendment and against the mandate we are debating here this afternoon. This is a well-intended provision in the bill. It has, as its sponsor has mentioned, the goal of encouraging students to participate in intercollegiate athletics, team sports that teach teamwork, individual sports that teach self-esteem and confidence. But the provision does not have the intended effect and indeed it will have the opposite effect; that is, it will risk hurting students.

As has been mentioned, if enrollment were to drop at an institution, if student interest in participating in a particular sport were to decline and the budget dropped for that particular sport, this bill could have the effect of eliminating Federal funding that is needed to run that university or college and eliminating sorely needed financial aid.

Let us focus on what the real issue here is. The real issue is that we should adequately fund our universities and colleges, not just intercollegiate athletics for women but for men as well. They should not have to compete against each other.

Secondly and most importantly, as the sponsor of this provision alluded to, we need to strongly fund financial aid, because the greatest threat to participation in intercollegiate athletics is the time of our students who are increasingly being forced to work, as the sponsor was, and attend school and are robbed of the opportunity for extracurricular activities outside the classroom. By funding financial aid to meet these rising tuition increases around our country, by freeing our students up to have time to participate, this is what we should be focused on. This is why I would urge the adoption of the amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, the reporting provisions in the Higher Education Act represent a highly inappropriate Federal intrusion into the affairs of our Nation's colleges and universities. I rise in support of the Roemer amendment to strike those provisions. Congress should not be in the business of interfering in the budgeting decisions of our Nation's colleges.

The Higher Education Act contains important provisions to help our students pay for the rapidly rising costs of college. Yet the reporting provisions in the bill would make it even more difficult for schools to make the tough decisions that will help them to keep tuition costs down. That is why the NCAA supports the Roemer amendment. These reporting provisions are an attempt to force colleges and universities to blame any reductions in men's sports on increases of women's sports. This is a backdoor attempt to weaken Title IX. This is not about men's teams versus women's teams. We are all on the same team here. We all win when our young women have the opportunity

to challenge themselves, to strive to succeed to improve their confidence.

I urge my colleagues to allow our colleges and universities the autonomy to make their own decisions. Vote for the Roemer amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. ETHERIDGE), a freshman Member working hard on education problems.

(Mr. ETHERIDGE asked and was given permission to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Chairman, I rise in strong support of the Roemer-Riggs amendment to correct a serious flaw in this bill. This provision is wrong. I urge my colleagues to support this amendment to remove it from the bill.

Last week I met in my office with the president of the North Carolina Association of Independent Colleges and Universities. She explained to me her concerns about the harmful effect that this provision of the bill would have on the institutions of higher education in our State. Without passage of the Roemer-Riggs amendment, this bill would usurp the administrative flexibility of colleges and universities that they absolutely need to run their universities in the most effective manner, a mandate that has been given to them by this Congress through a commission that they set up.

The Federal Government should not be in the business of micromanaging our universities of higher education. But we should not as a process of trying to do it pit our academic institutions against the athletics and their struggle for resources. This provision would handicap colleges and subject them to a burdensome, restrictive and contentious process and send the wrong message to our Nation's schools.

This provision is unnecessary, and the Roemer-Riggs amendment is supported by the NCAA and other major higher education organizations.

My Congressional District contains several small colleges and universities. These institutions would be particularly hard hit by this bill. We must preserve the flexibility of these schools to continue to provide the excellent educational opportunities they are providing today.

Mr. Chairman, as the first member of my family to graduate from college, I know firsthand that higher education holds the key to the American Dream. This provision of H.R. 6 would have very serious, negative consequences for our nation's colleges and universities. As the former Superintendent of my state's schools, I urge my colleagues to join me in voting for the Roemer-Riggs amendment.

Mr. HASTERT. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the full committee.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding time. I just wanted to indicate that there is certainly a happy side to this debate this evening because as the new majority we certainly are making converts over there. I have heard so many times in this discussion from that side of the aisle, ''We should not be mandating, we should not micromanage.'' That is music to my ears. We are really making progress here as a new majority. I thank you for joining us.

Mr. ROEMER. Mr. Chairman, we are delighted to get that endorsement from the chairman of the committee.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from North Carolina (Mr. PRICE), again from a university.

Mr. PRICE of North Carolina. Mr. Chairman, as a Member whose career has been in higher education, I would like to offer some observations in support of the Roemer amendment, which would strike the bill's provision requiring institutions to report annually and justify their reasons for any reduction in funding or in participation rates of any sports teams that might occur over the next 4 years.

I understand the intent of the gentleman from Illinois (Mr. HASTERT). We do need to use common sense in the implementation of Title IX, and the interests of all students in all sports need to be given consideration. But I think the Hastert provision is unwise policy for a couple of reasons.

The provision does represent a micromanagement of the budgeting practices of colleges and universities. Colleges and universities must be able to manage their budgets, set their priorities, and make their plans with the maximum amount of flexibility and freedom. These are hard times at many colleges and universities. Managing these institutions is a difficult task. An unreasonable Federal burden such as this one strikes me as simply unwise. Simply put, universities do not and should not be required to initiate 4-year budgeting plans. They need far more flexibility than that would permit, which leads me to my second point.

This provision might actually lead colleges to make hard and fast long-term decisions that would have the opposite effect of the intent of the bill. A requirement to announce decisions 4 years in advance could actually lead a college to signal the termination of a sports program, undermining its ability to recruit athletes, when in fact the program might be salvageable if circumstances change. It is hard to see any benefit in that for student athletes or for anybody else.

I urge my colleagues to vote in favor of the Roemer amendment in order to preserve the maximum amount of independence and flexibility in the operation of our Nation's colleges and universities.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BONIOR), our minority whip.

Mr. BONIOR. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise with great reluctance to oppose the language in the bill of the gentleman from Illinois (Mr. HASTERT), who has really spent a good deal of his life in behalf of young people. I have listened carefully to his remarks and the sincerity and the passion in which he delivered them earlier.

When I look at the bill, two things that stand out to me is what the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the committee referred to, and that is our concern about the micromanaging on our campuses, but also the issue that I want to address on the floor here is the question of Title IX and the great work that we have done over the years to get where we are, and that has been championed by the gentlewoman from Hawaii (Mrs. MINK).

Title IX is the landmark civil rights legislation which has done so much to advance equality for women. Thanks to 25 years of it, we are experiencing a tremendous boom in women's sports. When I was at the University of Iowa in 1963, on an athletic scholarship, I might add, to my friend from Illinois, I did not receive much glory either as I spent too much time on the bench, there was not a woman in the university who was on an athletic scholarship. Only the men had athletic scholarships. Before Title IX, only one in 27 girls competed in high school sports. Today it is one in three. Back then, only 300,000 young women took part in interscholastic athletics nationwide. Today it is 2.25 million.

This past winter, as has been said, we added women's hockey to the growing list of U.S. women's teams that are Olympic gold medal winners. We see young women turn out for NBA basketball games and they have got heroes like Rebecca Lobo and Lisa Leslie and soccer heroes like Mia Hamm. We should be proud of these new opportunities for our daughters.

This provision that is in the bill would, I think, take a step backwards by pitting men's programs against women's programs. It is important to understand that we have had no court order that has ever forced a school to reach proportionality to comply with Title IX. Mr. Chairman, I urge my colleagues not to pit small men's sports programs against struggling women's programs. I urge them to vote for the Roemer-Riggs-Mink amendment.

Mr. ROEMER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Hawaii (Mrs. MINK), the champion of equality and fairness.

(Mrs. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

Mrs. MINK of Hawaii. I thank the gentleman for yielding me this time.

Mr. Chairman, we have heard some very eloquent statements this afternoon arguing about the inability of institutions of higher learning to respond to this mandate to forecast 4 years in advance where they are going to eliminate or reduce athletic programs or cut

funding. More particularly, if you look at the language of the provision in the bill, it says, ''and to give reasons therefor.'' So while I fully subscribe to the arguments about university autonomy and what this provision will do to the universities, expecting them to be able to forecast 4 years in advance, I want to address those last four words of the amendment, ''and to give reasons therefor.''

Arguments have been made on the floor this afternoon that one of the reasons, perhaps, that men's nonrevenue sports have had to be eliminated in a number of instances is because women's sports have been gaining. If you look at the statistics and you study the record, such accusations are absolutely, totally false. Twenty-five years ago when I had the privilege of serving in the Congress and advocating for the passage of Title IX, women were totally excluded. Now for the first time, they are coming up and participating in major sports, gaining the support of wide audiences, becoming in some cases even a revenue sport. It seems to me it is wholly unfair to now try to cause the universities to single out Title IX as a reason for having to cut back on nonrevenue sports in the men's area. I believe sincerely that this is what it is all about.

I certainly agree with the gentleman from Illinois' argument that if we allow young people to participate in sports, it is going to change their lives entirely. That is exactly what has happened to women. It has changed their lives entirely. Title IX after 25 years has finally opened up opportunity in higher education, and one of the opportunities is in the sports area. It has given them the opportunity to find out what it is to be a competitor.

Women have been winning, have been coming home with the gold medals. I never had that opportunity. I could not even get into the profession that I wanted to when I was going to college. I yearned for the opportunity to have that chance, to seek my chosen career opportunities.

Title IX has opened up the way for women into law school, medical schools and all the professions. They have done well in the sports. Let us not add this language and compound the pressures upon Title IX and cause it to become the scapegoat for further accusations and further litigation.

Mr. Chairman, I urge the support of the Roemer amendment.

Mr. Chairman, I rise today in strong support of the Roemer amendment to strike the onerous reporting requirement included in this bill which will force schools to report on potential reductions in athletic programs.

This provision was included in the Committee bill at the 11th hour. Most Committee Members had no knowledge of the provision and there was no appropriate debate on the consequences or the practicality of what we are requiring schools to do in this provision.

There are many reasons to oppose the reporting requirement, many of which have been outlined by my colleagues—it is extraordinarily intrusive in the decision making process of colleges and universities; it is impractical—it will be virtually impossible for colleges to know if they are going to cut or reduce certain athletic programs four years in advance and it will force colleges to make decisions prematurely about their athletic programs. Furthermore, this reporting requirement could actually prompt colleges to close the very programs the proponents of this provision are seeking to save.

I oppose this provision for all these reasons, but most of all, I stand today with my colleague TIM ROEMER urging the House to strike this reporting requirement because of the potential for severe adverse impact on the enforcement of Title IX.

The reporting requirement in the bill was included by opponents to Title IX who want to force colleges to blame reductions in smaller, non-revenue men's sports on Title IX. They are hoping that colleges will say in their reports that compliance with Title IX is the reason they have to reduce men's sports, which is simply not true!

Title IX of the Education Act Amendments of 1972 prohibits all schools receiving federal funds from discriminating against women, including women's athletic programs.

The success of Title IX in increasing athletic opportunities for girls and women is indisputable. We have all seen the success of Title IX through the increased strength and popularity of women's collegiate sports, the record number of U.S. women athletes winning Olympic medals, and the establishment of two professional women's basketball leagues.

Thanks to Title IX, 110,000 college women and 2.2 million high school girls now compete in intercollegiate and interscholastic sports.

Women who participate in sports now reap the benefits that men have enjoyed for decades—new economic opportunities, building team work and leadership skills that translate into marketable jobs skills. Girls and women who participate in sports are also healthier and involvement in team sports also reduces the potential for involvement in juvenile crime and teen pregnancy.

Blaming women's sports for reductions in non-revenue men's sports is pitting the have-nots against the have-nots. While women's athletic programs have been increasing, female athletes still get the short end of the stick. Women still have only 37% of the opportunities to play intercollegiate sports, 38% of athletic scholarships, 23% of athletic operating budgets and 27% of the dollars spent to recruit new athletes.

While women's athletics has been inceasing, so have men's athletic budgets—at an even greater pace. Since 1972 (passage of Title IX) for every new dollar spent on women's intercollegiate sports, two new dollars were spent on men's intercollegiate sports.

From 1992–1997, men's athletic operating budgets have increased by 139%. The increase in women's budgets was much less at 89%.

The real problem is that the lion's share of total athletic resources goes to male athletes, but these resources are inequitably distributed among men's sports. Football and men's Basketball consume 73% of the total men's athletic operating budget at Division I–A institutions, leaving other men's sports to compete for the remaining funds.

Of the $1.37 million average increase in expenditures for men's Division I–A sports programs during the past five years, 63% of this increase went to football.

Minor men's sports that are threatened should turn their attention to the other major men's sports, and not take away from women's sports which only have 37% of the funds.

Title IX should not be used as a scapegoat for decisions made by institutions because of fiscal difficulties, or their decisions to inequitably distribute funds among men's sports.

We have come too far, we cannot turn our back on women athletes. Support Title IX and vote for the Roemer Amendment.

Mr. ROEMER. Mr. Chairman, how much time remains?

The CHAIRMAN pro tempore (Mr. EWING). The gentleman from Indiana (Mr. ROEMER) has 30 seconds and the gentleman from Illinois (Mr. HASTERT) has 2½ minutes.

Mr. ROEMER. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. ROEMER) has the right to close.

PARLIAMENTARY INQUIRY

Mr. HASTERT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. HASTERT. Mr. Chairman, the committee position holds the right to close. The gentleman from Indiana opened debate.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. HASTERT) is not on the committee. The gentleman from Indiana (Mr. ROEMER) has the right to close.

Mr. HASTERT. Mr. Chairman, I yield myself the balance of my time.

Certainly I want to thank the gentleman from California (Mr. MCKEON), who has worked with me to try to structure this language that made sense. I like to fish. I wish I had my pole here today because we have a lot of red herrings that have been floating around this place.

Let me be very, very honest and straight. The gentlewoman from Hawaii talked about title IX. This is not about title IX. Some people say it takes 4 years' notice. It is not 4 years' notice. It is notice when a school decides up to 4 years to give notice to kids who are not going to have the opportunity to participate.

□ 1800

But let me talk a little bit about what has arisen here as far as men versus women, certainly not the intent of this gentleman to talk about that. As my colleagues may know, my wife started teaching about the same time I did. She is a women's athletic coach. At that time the only opportunity that women had was GA, Girl's Athletics; it was an intramural thing. Today women have all types of opportunities; as many in girl sports in this high school as there are in boy sports, and that is great because it has changed the way.

All we are saying in this amendment is let us be decent, let us be honest, and let us tell our kids when their opportunities are gone that they have the

chance to go someplace else if that is the case. That is what we are asking about.

But let me just say one more thing. As my colleagues may know, I had worked with the universities and small colleges, independent colleges and the NCAA. We had an agreement. An agreement was when this bill goes to conference let us work to make sure that this is a voluntary system.

Now the Congress is going to work their will today, one way or another, but those who so vociferously stood up and said let us not do mandates, let us then talk to the NCAA and make sure that this does, win, lose, or draw, become something that is voluntarily encouraged by the NCAA to its members. That is the bottom line. Let us let kids have the understanding and the knowledge when their sport is terminated that they have the ability to make a choice. Let their parents have the ability to make their choice.

Now, unfortunately, a lot of these kids are going to be vested in these schools, they are going to have hours. Maybe there will be sophomores or juniors and they cannot afford to change. What we are asking them, if they can, if they want to, if they are following their life's dream and this is part of what they want to accomplish with a college education, they need to have the opportunity of the knowledge, the same knowledge that the school has. It is not going to change their ability or their budgeting or anything else. It is common sense.

Mr. Chairman, let us vote on the side of common sense in this Congress for a change.

Mr. ROEMER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in conclusion this side, in efforts to strike this language in the bill, we are for the students' right to know. We just think that the universities should do it in a voluntary fashion, not from a mandate from the Federal Government in Washington, D.C.

If we were to bring a small business bill to the floor and have a provision in that bill saying that every small business in the country has to let us in the Federal Government know 4 years in advance if they are going to lay anybody off, that would be voted down.

Vote down this provision. Do not put a half nelson of regulations on every university in the country. Vote for the Roemer-Riggs amendment.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong support of a bi-partisan amendment offered by my colleagues, Congressmen TIM ROEMER and FRANK RIGGS. This amendment would eliminate a provision in H.R. 6, the Higher Education Act of 1998, that would require colleges to report four years in advance the possible elimination of athletics programs. This onerous provision would, in effect, gut the purpose of equality in athletics for men and women. It is my hope that the wisdom of Congress prevails in adopting this amendment.

As the team leader for the Congressional Caucus for Women's Issues—Title IX task force, I am often asked whether the Women's Caucus has a position on the elimination of sports opportunities for men as a method of complying with Title IX of the Education Amendments of 1972. Over the past five years, no less than 55 institutions nationwide have eliminated or downgraded to club status men's varsity intercollegiate sports or placed squad size limits on men's teams. Most schools cite, as the reason for their decision, the need to reduce expenditures in order to provide opportunities for women.

The Women's Caucus is not in favor of reducing opportunities for men as the preferred method of achieving Title IX compliance. Title IX is one section of the Education Amendments of 1972. Though it is commonly associated with college athletic programs, it is, in fact, a wide-ranging sex discrimination law that also applies to high schools and elementary schools. It states: ''No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the participation in an educational activity.''

The reporting requirement in H.R. 6 was included by opponents to Title IX who want to force colleges to blame reductions in smaller, non-revenue men's sports on Title IX. They are hoping that colleges will say in their reports that compliance with Title IX is the reason they have to reduce men's sports, which is not true. Since the passage of Title IX, in 1972, for every one new dollar spent on women's intercollegiate sports, two new dollars were spent on men's intercollegiate sports. From 1992–1997, men's athletic operating budgets have increased by 139%. The increase in expenditures for women's sports during this time period, 89% pales in comparison. Football and men's basketball consume 73% of the total men's athletic operating budget at Division 1–A institutions, leaving other men's sports to compete for remaining funds. Of the $1.37 million average increase in expenditures for men's Division 1–A sports programs during the past five years, sixty-three percent of this increase went to football.

Blaming women's sports for reductions in non-revenue sports is pitting the have-nots against the have-nots. The lion's share or resources goes to male athletes, which are inequitably distributed among men's sports. Title IX should not be used as a scapegoat for decisions made by institutions because of fiscal difficulties, or because of decisions to inequitably distribute funds among men's sports.

Instead of developing an acrimonious environment between men's non-revenue sports and women's sports, we as legislators should be looking for solutions that will allow opportunities for all students to participate in activities. We need to explore the options of moving college athletic programs to a lower level of competitive division and using tuition waiver savings to athletics budgets to fund gender equity.

Equality has always benefited all Americans. If we intended to compete on a global level academically and athletically, we need a strong Title IX. I urge my colleagues to support this bi-partisan amendment to H.R. 6, the Higher Education Act.

Mrs. MALONEY of New York. Mr. Chairman, I rise in support of this amendment to H.R. 6.

H.R. 6 contains a provision which requires colleges to report on any potential reduction in athletic programs four years in advance and the reasons for that proposed reduction.

This provision is just another attempt to get colleges and universities to blame Title IX for reductions in smaller, non-revenue men's sports.

Title IX has been very successful in increasing the visibility and strength of women's collegiate sports. Its success can be seen in the two newly formed professional women's basketball leagues.

Title IX has been very important program, and it should not become a scapegoat for fiscal difficulties affecting the institution.

Title IX is not the only problem with this bill.

Congress should not restrict a college or universities ability to decide on its programs and budget.

Colleges and universities do not set their budgets four years in advance, yet this provision would force them to make decisions while just guessing at what the future may hold.

In a time when the cost of college is rising much faster than the cost of living, we must find ways to help colleges decrease costs; not create obstacles to suspending programs that the college or university can no longer afford.

This provision intrudes into the decision making policies of universities and colleges, and it would force colleges to make decisions prematurely about their athletic programs.

I urge my colleagues to join me in voting yes to this amendment to delete this provision from the bill.

Mr. BENTSEN. Mr. Chairman, I rise in support of this amendment.

This amendment strikes a provision of this bill that would have the federal government oversee and mandate the decisions of our nation's institutions of higher learning. I support this amendment because I believe it is inappropriate for Congress to interfere in a college or university's design of its own athletic programs or preparation of its own budget.

The provision in question would require institutions to file annual reports with the federal government that specify and justify any planned reductions in funding or participation rates of any athletic programs that may occur over the following four years. This is a costly, unnecessary and unfunded mandate that would undermine Congress' previous efforts to ensure the affordability of higher education.

The National Commission on the Cost of Higher Education, which Congress created, allowed institutions to make their own decisions about the best means for slowing the growth of college costs. This bill, however, would take away this authority and require postsecondary institutions to justify their budgets and long-range planning decisions. Most, if all, colleges and universities do not budget in four year cycles. This bill would require these institutions to revise budgetary practices and foresee the rise or decline in athletic programs several years in advance. This action will not only have an immediate, negative impact on the identified program, but it would severely restrict an institution's ability to recruit student athletes and take steps to save troubled programs.

There is simply no need for this provision. In fact, NCAA data shows no evidence of a nationwide trend of eliminating college athletic programs. In the 1995–96 academic year, only two sports experienced a reduction in their team totals, with a net loss of only six teams. That is only six teams out of 15,141 men's and women's sports teams, with 322,763 student-athletes, in NCAA member-sponsored institutions. In fact in 1995–96, 1,166 new sports teams were added.

I am also concerned that this provision would force institutions to reduce participation in smaller, non-revenue Title IX sports programs, which are designed to expand opportunity for women in college athletic programs. The bill contains burdensome reporting requirements that would pit sports programs for men against those for women. If institutions are forced to forecast profitability when determining the future of athletic programs, I am concerned that less established, revenue-neutral womens programs will be easy targets for termination. The end result will be diminished level of opportunity for women athletes and diminished participation by women in intercollegiate athletics.

I urge all of my colleagues to support the Riggs-Roemer amendment.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise today to urge my colleagues to support the Riggs-Roemer Amendment to H.R. 6, the Higher Education Act Amendments of 1998. Currently, H.R. 6 contains language that would require universities to give at least four years of advance notice if they plan to discontinue any sports programs. The Riggs-Roemer Amendment would remove this language from H.R. 6, and prevent the federal government from micro-managing college sports in this dangerous manner.

Once a college announces that one of their sports teams is being disbanded, immediately, that team becomes a lame duck. The program permanently loses its fan base, any potential recruits and also the support of its financial boosters. The potential thus becomes a reality.

It would be a shame if a college were forced by law to announce the discontinuation of a sport four years early, only to find enough money to keep the program afloat a year later. By then, that program will have suffered irreparable and unnecessary damage to its reputation and viability.

The government should not force colleges to announce four years in advance that they plan to discontinue a sports program. That rule would limit a college's options when it comes to possibly saving a struggling sport. I urge my colleagues to support the Riggs-Roemer Amendment to H.R. 6, so we can save college athletics from government over-regulation.

Mr. MORAN of Virginia. Mr. Chairman, I rise in strong support of the Riggs-Roemer Amendment.

I agree with my colleagues about the importance of ensuring autonomy for university administrators for their own athletic programs. I am astounded at the thought of the compliance issues associated with the provision in the bill this amendment proposes to strike. I am also concerned that this is a thinly veiled attempt to undermine the gains that we have made through the Title IX program.

The provision in H.R. 6 that the Riggs-Roemer amendment would eliminate would force recipients of Higher Education Act funds to justify cuts in college athletic programs.

Forcing an institution to maintain a failed program for four years after they report the cut is ludicrous. Imagine if this requirement were imposed on Congress. We would not be able to cut a program even if an emergency demanded it. We would never accept such a restriction and should not impose one on university administrators.

This provision is an attempt to allow colleges and universities to use Title IX as a scapegoat for cuts to other athletic programs.

No one understands better the difficult decisions that balancing a budget brings than we do in Congress. Title IX, which creates equal access to important programs for young men and women, should not suffer because of painful budgetary decisions. Last year Title IX celebrated its 25th anniversary. Since that time, women's participation in school athletic programs has increased dramatically. This increase has benefited young women in many aspects of life. Young women who play sports are more likely to graduate from high school, and less likely to use drugs or have an unintended pregnancy. They reap multiple health benefits from athletic participation, including a 40%–60% decrease in their risk of breast cancer. In addition, athletic participation helps improve self-esteem and discipline.

I urge my colleagues to support Title IX and preserve autonomy in decisions at institutions of higher education. Please support the Riggs-Roemer amendment.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from Indiana (Mr. ROEMER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, further proceedings on the amendment offered by the gentleman from Indiana (Mr. ROEMER) will be postponed.

Are there further amendments?

AMENDMENT NO. 82 OFFERED BY MS. MILLENDER-MCDONALD

Ms. MILLENDER-MCDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 82 offered by Ms. MILLENDER-MCDONALD:

At the end of the bill add the following new title:

TITLE XI—TEACHER EXCELLENCE IN AMERICA CHALLENGE

SEC. 1101. SHORT TITLE.

This title may be cited as the ''Teacher Excellence in America Challenge Act of 1998'.

SEC. 1102. PURPOSE.

The purpose of this title is to improve the preparation and professional development of teachers and the academic achievement of students by encouraging partnerships among institutions of higher education, elementary schools or secondary schools, local educational agencies, State educational agencies, teacher organizations, and nonprofit organizations.

SEC. 1103. GOALS.

The goals of this title are as follows:

(1) To support and improve the education of students and the achievement of higher academic standards by students, through the enhanced professional development of teachers.

(2) To ensure a strong and steady supply of new teachers who are qualified, well-trained, and knowledgeable and experienced in effective means of instruction, and who represent the diversity of the American people, in order to meet the challenges of working with students by strengthening preservice education and induction of individuals into the teaching profession.

(3) To provide for the continuing development and professional growth of veteran teachers.

(4) To provide a research-based context for reinventing schools, teacher preparation programs, and professional development programs, for the purpose of building and sustaining best educational practices and raising student academic achievement.

SEC. 1104. DEFINITIONS.

In this title:

(1) ELEMENTARY SCHOOL.—The term ''elementary school'' means a public elementary school.

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' means an institution of higher education that—

(A) has a school, college, or department of education that is accredited by an agency recognized by the Secretary for that purpose; or

(B) the Secretary determines has a school, college, or department of education of a quality equal to or exceeding the quality of schools, colleges, or departments so accredited.

(3) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(4) PROFESSIONAL DEVELOPMENT PARTNERSHIP.—The term ''professional development partnership'' means a partnership among 1 or more institutions of higher education, 1 or more elementary schools or secondary schools, and 1 or more local educational agency based on a mutual commitment to improve teaching and learning. The partnership may include a State educational agency, a teacher organization, or a nonprofit organization whose primary purpose is education research and development.

(5) PROFESSIONAL DEVELOPMENT SCHOOL.—The term ''professional development school'' means an elementary school or secondary school that collaborates with an institution of higher education for the purpose of—

(A) providing high quality instruction to students and educating students to higher academic standards;

(B) providing high quality student teaching and internship experiences at the school for prospective and beginning teachers; and

(C) supporting and enabling the professional development of veteran teachers at the school, and of faculty at the institution of higher education.

(6) SECONDARY SCHOOL.—The term ''secondary school'' means a public secondary school.

(7) TEACHER.—The term ''teacher'' means an elementary school or secondary school teacher.

SEC. 1105. PROGRAM AUTHORIZED.

(a) IN GENERAL.—From the amount appropriated under section 1111 and not reserved under section 1109 for a fiscal year, the Secretary may award grants, on a competitive basis, to professional development partnerships to enable the partnerships to pay the Federal share of the cost of providing teacher preparation, induction, classroom experience, and professional development opportunities to prospective, beginning, and veteran teachers while improving the education of students in the classroom.

(b) DURATION; PLANNING.—The Secretary shall award grants under this title for a period of 5 years, the first year of which may be used for planning to conduct the activities described in section 1106.

(c) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall make annual payments pursuant to a grant awarded under this title.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (a)(1) shall be 80 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (a)(1) may be in cash or in-kind, fairly evaluated.

(d) CONTINUING ELIGIBILITY.—

(1) 2ND AND 3D YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the first fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this title, has made reasonable progress toward meeting the criteria described in paragraph (3).

(2) 4TH AND 5TH YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the third fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this title, has met the criteria described in paragraph (3).

(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are as follows:

(A) Increased student achievement as determined by increased graduation rates, decreased dropout rates, or higher scores on local, State, or national assessments for a year compared to student achievement as determined by the rates or scores, as the case may be, for the year prior to the year for which a grant under this title is received.

(B) Improved teacher preparation and development programs, and student educational programs.

(C) Increased opportunities for enhanced and ongoing professional development of teachers.

(D) An increased number of well-prepared individuals graduating from a school, college, or department of education within an institution of higher education and entering the teaching profession.

(E) Increased recruitment to, and graduation from, a school, college, or department of education within an institution of higher education with respect to minority individuals.

(F) Increased placement of qualified and well-prepared teachers in elementary schools or secondary schools, and increased assignment of such teachers to teach the subject matter in which the teachers received a degree or specialized training.

(G) Increased dissemination of teaching strategies and best practices by teachers associated with the professional development school and faculty at the institution of higher education.

(e) PRIORITY.—In awarding grants under this title, the Secretary shall give priority to professional development partnerships serving elementary schools, secondary schools, or local educational agencies, that serve high percentages of children from families below the poverty line.

SEC. 1106. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Each professional development partnership receiving a grant under this title shall use the grant funds for—

(1) creating, restructuring, or supporting professional development schools;

(2) enhancing and restructuring the teacher preparation program at the school, college, or department of education within the institution of higher education, including—

(A) coordinating with, and obtaining the participation of, schools, colleges, or departments of arts and science;

(B) preparing teachers to work with diverse student populations; and

(C) preparing teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

(3) incorporating clinical learning in the coursework for prospective teachers, and in the induction activities for beginning teachers;

(4) mentoring of prospective and beginning teachers by veteran teachers in instructional skills, classroom management skills, and strategies to effectively assess student progress and achievement;

(5) providing high quality professional development to veteran teachers, including the rotation, for varying periods of time, of veteran teachers—

(A) who are associated with the partnership to elementary schools or secondary schools not associated with the partnership in order to enable such veteran teachers to act as a resource for all teachers in the local educational agency or State; and

(B) who are not associated with the partnership to elementary schools or secondary schools associated with the partnership in order to enable such veteran teachers to observe how teaching and professional development occurs in professional development schools;

(6) preparation time for teachers in the professional development school and faculty of the institution of higher education to jointly design and implement the teacher preparation curriculum, classroom experiences, and ongoing professional development opportunities;

(7) preparing teachers to use technology to teach students to high academic standards;

(8) developing and instituting ongoing performance-based review procedures to assist and support teachers' learning;

(9) activities designed to involve parents in the partnership;

(10) research to improve teaching and learning by teachers in the professional development school and faculty at the institution of higher education; and

(11) activities designed to disseminate information, regarding the teaching strategies and best practices implemented by the professional development school, to—

(A) teachers in elementary schools or secondary schools, which are served by the local educational agency or located in the State, that are not associated with the professional development partnership; and

(B) institutions of higher education in the State.

(b) CONSTRUCTION PROHIBITED.—No grant funds provided under this title may be used for the construction, renovation, or repair of any school or facility.

SEC. 1107. APPLICATIONS.

Each professional development partnership desiring a grant under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

(1) describe the composition of the partnership;

(2) describe how the partnership will include the participation of the schools, colleges, or departments of arts and sciences within the institution of higher education to ensure the integration of pedagogy and content in teacher preparation;

(3) identify how the goals described in section 1103 will be met and the criteria that will be used to evaluate and measure whether the partnership is meeting the goals;

(4) describe how the partnership will restructure and improve teaching, teacher preparation, and development programs at the institution of higher education and the professional development school, and how such systemic changes will contribute to increased student achievement;

(5) describe how the partnership will prepare teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

(6) describe how the teacher preparation program in the institution of higher education, and the induction activities and ongoing professional development opportunities in the professional development school, incorporate—

(A) an understanding of core concepts, structure, and tools of inquiry as a foundation for subject matter pedagogy; and

(B) knowledge of curriculum and assessment design as a basis for analyzing and responding to student learning;

(7) describe how the partnership will prepare teachers to work with diverse student populations, including minority individuals and individuals with disabilities;

(8) describe how the partnership will prepare teachers to use technology to teach students to high academic standards;

(9) describe how the research and knowledge generated by the partnership will be disseminated to and implemented in—

(A) elementary schools or secondary schools served by the local educational agency or located in the State; and

(B) institutions of higher education in the State;

(10)(A) describe how the partnership will coordinate the activities assisted under this title with other professional development activities for teachers, including activities assisted under titles I and II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq., 6601 et seq.), the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.); and

(B) describe how the activities assisted under this title are consistent with Federal and State educational reform activities that promote student achievement of higher academic standards;

(11) describe which member of the partnership will act as the fiscal agent for the partnership and be responsible for the receipt and disbursement of grant funds under this title;

(12) describe how the grant funds will be divided among the institution of higher education, the elementary school or secondary school, the local educational agency, and any other members of the partnership to support activities described in section 1106;

(13) provide a description of the commitment of the resources of the partnership to the activities assisted under this title, including financial support, faculty participation, and time commitments; and

(14) describe the commitment of the partnership to continue the activities assisted under this title without grant funds provided under this title.

SEC. 1108. ASSURANCES.

Each application submitted under this title shall contain an assurance that the professional development partnership—

(1) will enter into an agreement that commits the members of the partnership to the support of students' learning, the preparation of prospective and beginning teachers, the continuing professional development of veteran teachers, the periodic review of

teachers, standards-based teaching and learning, practice-based inquiry, and collaboration among members of the partnership;

(2) will use teachers of excellence, who have mastered teaching techniques and subject areas, including teachers certified by the National Board for Professional Teaching Standards, to assist prospective and beginning teachers;

(3) will provide for adequate preparation time to be made available to teachers in the professional development school and faculty at the institution of higher education to allow the teachers and faculty time to jointly develop programs and curricula for prospective and beginning teachers, ongoing professional development opportunities, and the other authorized activities described in section 1106; and

(4) will develop organizational structures that allow principals and key administrators to devote sufficient time to adequately participate in the professional development of their staffs, including frequent observation and critique of classroom instruction.

SEC. 1109. NATIONAL ACTIVITIES.

(a) IN GENERAL.—The Secretary shall reserve a total of not more than 10 percent of the amount appropriated under section 1111 for each fiscal year for evaluation activities under subsection (b), and the dissemination of information under subsection (c).

(b) NATIONAL EVALUATION.—The Secretary, by grant or contract, shall provide for an annual, independent, national evaluation of the activities of the professional development partnerships assisted under this title. The evaluation shall be conducted not later than 3 years after the date of enactment of the Teacher Excellence in America Challenge Act of 1998 and each succeeding year thereafter. The Secretary shall report to Congress and the public the results of such evaluation. The evaluation, at a minimum, shall assess the short-term and long-term impacts and outcomes of the activities assisted under this title, including—

(1) the extent to which professional development partnerships enhance student achievement;

(2) how, and the extent to which, professional development partnerships lead to improvements in the quality of teachers;

(3) the extent to which professional development partnerships improve recruitment and retention rates among beginning teachers, including beginning minority teachers; and

(4) the extent to which professional development partnerships lead to the assignment of beginning teachers to public elementary or secondary schools that have a shortage of teachers who teach the subject matter in which the teacher received a degree or specialized training.

(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information (including creating and maintaining a national database) regarding outstanding professional development schools, practices, and programs.

SEC. 1110. SUPPLEMENT NOT SUPPLANT.

Funds appropriated under section 1111 shall be used to supplement and not supplant other Federal, State, and local public funds expended for the professional development of elementary school and secondary school teachers.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $100,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.

(Ms. MILLENDER-MCDONALD asked and was given permission to revise and extend her remarks.)

Ms. MILLENDER-MCDONALD. I offer this amendment, Mr. Chairman, because we must improve the quality of teachers teaching our children. As a former educator in the Los Angeles Unified School District, I know the discouragement and despair that saps the morale and inspiration of our teachers, which directly impacts our children. I believe that we must restore the stature and importance of the profession of teaching. We must have the best-trained teachers if we expect our children to be the best.

This is why I have offered the Teacher Excellence Amendment which will change the way teachers are trained and improve the quality of teaching in America's classrooms. The language implements some of the recommendations from the National Commission on Teaching in America's Future, of which I am the only Member of Congress who serves on that commission.

My amendment, Mr. Chairman, will directly connect our teacher preparation system to our schools by establishing a competitive grant program for professional development partnership consisting of colleges, public schools, State and local educational agencies, teacher organizations, professional education organizations and others. If we are to make sure or to ensure that teachers are professionally trained, Mr. Chairman, we must make sure that we then have the type of professional development that will not just be weekend professional development but will be ongoing professional development.

The amendment also provides for the continuing development and professional training of veteran teachers, and it also provides for mentorship of prospective and beginning teachers by veteran teachers. We recognize that beginning teachers must have pre-induction and post-induction training and support systems. Therefore, this bill and this amendment would allow for that type of professional development of veteran teachers.

The amendment also increases recruitment to outreach for more diverse students toward teacher discipline. It prioritizes awarding of grants to programs serving low-income areas. It promotes the use of teachers of excellence, who have master teaching techniques in subject areas, to come back and teach those beginning teachers, as well as teachers that are certified by the National Board of Professional Teaching Standards, to assist prospective and beginning teachers.

Now some of the weaknesses of the underlying bill: It prohibits a national system of teaching certification, and we from the National Commission of Teaching in America's Future recognize it is the fact that we must have a national system of teacher certification so that we will ensure that teachers are certified to teach in those prospective disciplines.

This amendment also authorizes $100 million as opposed to the 18 million that the present bill has. We see this as a need, if we are going to encourage more professional development, that is sorely needed for qualified teachers.

It also mandates governors to submit grant applications instead of allowing individual professional development partnerships to submit their own grant applications.

Mr. Chairman, I do urge that my colleagues support this teacher excellence amendment as it ensures America's teachers be the best trained they can be to educate our children for the world of work; and for that, Mr. Chairman, I ask for the approval of the amendment.

Mr. GOODLING. Mr. Chairman, will the gentlewoman yield?

Ms. MILLENDER-MCDONALD. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, as I understand it, we are working with the gentlewoman between now and conference time to see what we can do with her desires.

Ms. MILLENDER-MCDONALD. Mr. Chairman, I do hope that we can work together because there are a lot of provisions in my amendment that are not in the present bill, and I think it is critical that we include these provisions if we are going to indeed talk about professional training for teachers and ensure that teachers are qualified to teach in that discipline. And for that reason, I sure hope that I have the understanding from the gentleman that we will work with the provisions that I have in concert with what the gentleman has.

For that reason, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN pro tempore. The amendment offered by the gentlewoman from California (Ms. MILLENDER-MCDONALD) is withdrawn.

AMENDMENT NO. 31 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 31 offered by Ms. JACKSON-LEE of Texas: at the end of the bill, add the following new title:

TITLE XIII—EARLY DYSLEXIA DETECTION

SEC. 1202. EARLY DYSLEXIA DETECTION.

Directs the Secretary to conduct a study and submit a report to the Congress on methods for identifying students with dyslexia early in their educational training, and conduct such study in conjunction with the National Academy of Sciences.

MODIFICATION TO AMENDMENT NO. 31 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to modify my amendment with the modification at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 31 offered by Ms. JACKSON-LEE of Texas: in lieu of the matter proposed to be added at the end of the bill, add the following:

TITLE XI—SENSE OF THE HOUSE OF REPRESENTATIVES REGARDING DETECTION OF LEARNING DISABILITIES, PARTICULARLY DYSLEXIA, IN POST-SECONDARY EDUCATION

SEC. 1101. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that colleges and universities receiving assistance under the Higher Education Act of 1965 shall establish policies for identifying students with learning disabilities, specifically students with dyslexia, early during their postsecondary educational training so they may have the ability to receive higher education opportunities.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentlewoman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The modification is agreed to.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I do want to thank the gentleman from Pennsylvania (Mr. GOODLING) the chairperson, for both cooperating with me on this sense of Congress, but as well acknowledging the many efforts that we have offered and constructed dealing with learning disabilities and, in particular, dyslexia. Let me thank the gentleman from Missouri (Mr. CLAY) for his kindness and cooperation as well, the gentleman from California (Mr. MCKEON), and the gentleman from Michigan (Mr. KILDEE) for their sensitivity to this issue.

Fifteen percent of the U.S. population, about 1 of 7 or 39 million Americans, have some form of learning disability according to the National Institutes of Health. While some students come to college already identified as having learning disabilities, others may not be recognized or begin to understand their difficulties until they reach college, and in particular because the pace changes.

Despite greater awareness of learning disabilities in elementary and high schools, children still slip through the cracks. Parents and teachers are understanding the reluctance to characterize their children's problems as disabilities, and therefore people with learning disabilities come as intelligent human beings and are as intelligent as the rest of the population, but a gap begins. Students with learning disabilities come to college with the same motivations as other students.

An article that appeared in the New England Journal of Medicine said, ''A treatment of reading disorder, dyslexia, demands a life-span perspective. Why do you say that we have not detected it in the earlier years?'' Well, sometimes that does not occur. Students go all the way through high school, come to college and find out at the moment when they are looking for their career, they cannot function.

Mr. Chairman, this is destructive and devastating. If an adult has a learning disability, they may experience many problems, but they no longer spend their day in school and cannot turn to the public school system for evaluation and special instruction. Our colleges do have this ability.

According to Dr. Sally Shaywitz, developmental dyslexia is characterized by an unexpected difficulty in reading in children and adults who otherwise possess the intelligence, motivation, and schooling considered necessary for accurate and fluent reading in order to be able to succeed. I could call off the roll, Mr. Chairman, of so many people of excellence throughout this Nation who will tell my colleagues, both quietly and publicly, ''I have dyslexia,'' only discovered, however, late in life. Dyslexia is the most common and most carefully studied of the learning disabilities, affecting 80 percent of all those identified as learning disabled. Many become aware of dyslexia later in life because of the more rigorous pace of college.

So it is very important that this sense of Congress does acknowledge that education means excellence, and because of excellence we are going to work with the chairperson and demand that we focus on this very important element.

Let me also say, Mr. Chairman, if I might step briefly aside to say as the Riggs amendment comes to the floor of the House, it has not yet come, but because I think these are so much intertwined and related, I simply want to acknowledge my strong opposition to the Riggs amendment and will revise my remarks; for it is evident that in Houston when we defeated Proposition A, it is very clear that in defeating proposition A, we in Houston and in Texas have said no to eliminating affirmative action.

The Riggs amendment would propose to eliminate affirmative action in higher education. It is the same thing as holding someone back, not giving them the opportunity. We have seen the evidence of diminishing applications for Hispanics and African Americans in California and the devastation of Hopwood in Texas.

I would simply say, Mr. Chairman, that it is important that we create opportunities at all levels. Vote down the Riggs amendment. And I hope that my sense of Congress on the issue of dyslexia dealing with learning disabilities will see more highlight and more light on this issue of making sure that those very bright and intelligent individuals with learning disorders and dyslexia be treated in such a way that our colleges detect it and give them the opportunity to succeed and have an effective and positive career.

With that, Mr. Chairman, I would ask the gentleman from Pennsylvania (Mr. GOODLING just for a moment, and I will yield on the dyslexia sense of Congress; I would appreciate it if we could work together on this idea of making sure that everyone who has a learning disability has an opportunity to learn.

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Mr. GOODLING. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we accept the gentlewoman's sense of Congress resolution.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. Chairman, I rise to offer a Sense of Congress Amendment to H.R. 6, the Higher Education Amendment of 1998. This amendment directs the Secretary of Education to conduct colleges and universities to create policies for identifying students with dyslexia early in their college or university training.

Fifteen percent of the U.S. population-about one of seven-or 39 million Americans have some form of learning disability, according to the National Institutes of Health.

While some students come to college already identified as having learning disabilities, others may not recognize or begin to understand their difficulties until they reach college. Despite greater awareness of learning disabilities in elementary and high schools, children still slip through the cracks; parents and teachers are understandably reluctant to characterize a child's problems as ''disabilities.''

People with learning disabilities are as intelligent as the rest of the population. Their learning disability, however, creates a gap between ability and performance.

Students with learning disabilities come to college with the same motivations as other students: to explore interests, broaden knowledge and understanding, satisfy curiosity, and prepare to contribute to the working world and to society.

An article that appeared in the New England Journal of Medicine says the treatment of the reading disorder dyslexia demands a life-span perspective. Adults who have trouble reading or learning usually have had these problems since they were children. Their problems may stem from having a learning disability that went undetected or untreated as a child.

If an adult has a learning disability they may experience many problems, but they no longer spend their day in school and cannot turn to the public school system for evaluation and special instruction.

According to Dr. Sally E. Shaywitz, developmental dyslexia is characterized by an unexpected difficulty in reading in children and adults who otherwise posses the intelligence, motivation, and schooling considered necessary for accurate and fluent reading.

Dyslexia is the most common and most carefully studied of the learning disabilities, affecting 80 percent of all those identified as learning disabled.

The need to better understand the source of learning disabilities in adults is extremely important. Persons with learning disability may exhibit several of many behaviors.

They may demonstrate difficulty in reading, writing, spelling, and/or using numerical concepts in contrast with average to superior skills in other areas. They may have poorly formed handwriting. They may have trouble listening to a lecture and taking notes at the same time. The person may be easily distracted by background noise. They may have

trouble understanding or following directions. Confuses similar letters such as ''b'' and ''d'' or ''p'' and ''q''. Confuses similar numbers such as 3 and 8, 6 and 9 or changes sequences of numbers such as 14 and 41. This is only a short list of those things which may indicate dyslexia in an adult.

The diagnostic process for adults with learning disabilities is different from diagnosis and testing for children. While diagnosis for children and youth is tied to the education process, diagnosis for adults is more directly related to problems in employment, life situations, and education.

Adults becoming aware of dyslexia later in their educational career can be due to the change of pace that is found in colleges and universities as well as the volume of work required to compete in higher education.

Policies by colleges and universities creating methods for identifying students with dyslexia early in their college or university training can allow us to provide assistance to the learning disabled as they work to obtain degrees or specialized training for careers.

Mr. Chairman, I rise today to speak against the Riggs Amendment to H.R. 6, the Higher Education Amendments of 1998. Plainly stated, the Riggs Amendment, if passed, would end all affirmative action measures directed toward creating more ethnically diverse student bodies in our Nation's institutions of higher learning. The issue here is very clear, the Riggs Amendment is a threat to the very kind of inclusiveness that we Americans say that we unequivocally cherish. Currently, as it has been repeatedly clarified by the highest Court in the land, any higher education admissions program that takes into account ''race, sex, color, ethnicity or national origin'', can only do so in a narrowly tailored fashion to remedy a specific art of discrimination (Adarand v. Pena, O'Connor) or as a ''plus factor'' to a college or university seeking to create a culturally and ethnically diverse student body (Bakke v. California Board of Regents, Powell). Simply stated, affirmative action admissions programs in this country do not operate without clear legal constraints. Blind preferences are not given to women and minorities in our nation's higher education admissions programs; essentially, affirmative action is a means to an end. The end of making our colleges and universities resemble the beautiful multi-ethnic diversity of our proud nation.

There is no doubt that without the active participation of the federal government in promoting affirmative action programs, the ability of minorities and women to effectively compete and matriculate into institutions of higher learning will be dramatically reduced. According to information released by Boalt Hall at the University of California, Berkeley, the elimination of affirmative action has produced a substantial drop in the number of offers of admission made to minority applicants other than Asians for fall 1997 at UC Berkeley's school of law. Boalt Hall made 815 offers of admission last year; 75 were made to African Americans and 78 were made to Hispanics/Latinos. However, under the elimination of affirmative action at Boalt Hall, of the 792 offers of admission, only 14 were made to African Americans and only 39 were made to Hispanics/Latinos.

In response to these dismal numbers, Boalt Hall dean Kay Hill stated, ''this dramatic decline in the number of offers of admissions made to non-Asian minority applicants is precisely what we feared would result from the elimination of affirmative action at Boalt.'' In Texas the numbers are no better. In the class that began at the University of Texas Law School last fall, of the 791 students admitted, only 5 African Americans and 18 Hispanics were admitted. This is a striking contrast to the 65 African Americans and 70 Mexican Americans admitted last year.

Additionally, undergraduate enrollment has dropped as well. 421 African Americans and 1,568 Hispanics were admitted to the University of Texas in 1996. However, in 1997, only 314 African Americans and 1,333 Hispanics received offers for admittance. The total enrollment at the four University of Texas medical schools has dropped from 41 African Americans in 1996 to only 22 for 1997. The assault on affirmative action will have dramatic results in the number of doctors, lawyers, individuals holding advanced degrees in the African American and minority communities.

There is no doubt that these dismal numbers in Texas are a direct result of the decisions in Hopwood versus Texas. Four white rejected applicants to the University of Texas school of law sued in Federal court, claiming that the law school's 1992 affirmative action program violated the U.S. Constitution. The court held that the state university's law school admission program which discriminated in favor of minority applicants by giving substantial racial preferences in its admission program violated equal protection.

The panel of justices in Hopwood ruled that any consideration of race or ethnicity by the University of Texas law school for the purpose of achieving a diverse student body is not a compelling interest. The court reasoned that the use of race for diversity purposes was grounded in racial sterotyping and stigmatized individuals on the basis of race. Additionally, the court in Hopwood rejected consideration of race as a remedy for the present effects of past discrimination. The court refused to include prior discrimination by the undergraduate school of the university or discrimination within Texas' elementary and secondary schools as a reason for the law school to use a remedial racial classification.

We seek affirmative action today because we are still suffering from the history of affirmative racism in this county. Even the court in Adarand acknowledged that the government has a compelling interest in remedying the ''unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country.'' I vehemently disagree with the court in Hopwood in saying that diversity is not a compelling interest. It is evident that the justices in Hopwood have not had the pleasure and experience of participating in a diverse setting. As Jonathan Alger of the American Association of University Professors wrote, ''diversity is not a dirty word.''

Regents of the University of California versus Bakke is the law of the land. In the 1978 Bakke decision, Justice Powell found that a diverse student body in a university setting enhances the learning environment for all students and therefore is a compelling interest in support of affirmative action. The court held that the rigid reservation of 16 places on the basis of race was unconstitutional. However, Bakke concluded that the flexible consideration of race, as one of many factors used to obtain a highly qualified, diverse entering class as permitted by the constitution.

Therefore, we must continue our commitment to prioritize diversity as an important and worthy necessity in achieving the goal of true racial inclusion in this country. As the great civil rights activist and former national director of the Urban League, Whitney Moore Young, Jr. Wrote in his 1964 book To Be Equal, ''only hopelessly insecure, tragically immature people need to surround themselves with sameness. People who are secure and mature, people who are sophisticated, want diversity. One doesn't grow by living and associating only with people who look like oneself, have the same background, religion, and interests.'' So please join with me and vote down the Riggs Amendment of H.R. 6.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

AMENDMENT NO. 63 OFFERED BY MR. HALL OF TEXAS

Mr. HALL of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Did the gentleman from Texas have his amendment printed in the RECORD?

Mr. HALL of Texas. Mr. Chairman, it is my understanding that it was.

The CHAIRMAN pro tempore. The Clerk has already read title VIII. Does the gentleman request unanimous consent for his amendment to be considered?

Mr. HALL of Texas. Mr. Chairman, I ask unanimous consent that my amendment be considered at this point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 63 offered by Mr. HALL of Texas: At the appropriate place in the bill to Title VIII insert the following new section:

SEC. TEXAS COLLEGE PROVISION.

The Secretary may not consider audit deficiencies relating to record keeping with respect to qualifying students for financial aid at Texas College, located in Tyler, Texas, for academic years prior to and including academic year 1994–1995 in determining whether Texas College complies with the financial responsibility and administrative capacity standards under Section 498 of the Higher Education Act of 1965, if Texas College has filed an affidavit with the Department of Education stating that it has made a good faith effort to furnish records to the Department with respect to such audits.

Mr. HALL of Texas. Mr. Chairman, this amendment would preclude the U.S. Department of Education from imposing audit deficiencies on Texas College that result from records not maintained or retained by the college administrators for academic years 1990–1991 to the arrival of the current administration at the college in 1994.

Although a very diligent effort has been made and is continuing to be made by the staff of the current administration to locate these records, it is to no avail due to failures of previous personnel. There has been an effort

made to produce these records, and they are just not available.

They produced a number of answers to the questions, inquiries submitted by the Department of Education, I think enough to allow the department some leeway, and we are working with the department at this time in order to work this matter out.

Texas College's current application for participation in the title IV student assistance programs is being, I think, needlessly delayed based on the absence of records and assertions that failure to produce such records means the current administration is financially irresponsible and administratively incapable.

That is just not the situation. We have Texas College, which is a black college founded in 1894, affiliated with the Christian Methodist Episcopal Church. Bishop Gilmore serves as the Episcopal bishop in Texas. We have had a new president, Dr. Strickland, at Texas College since November of 1994.

The members of the board and their associations have put millions of dollars into this college in order to keep it open. They have, against great odds, kept it open since the funds were cut off in 1994. We intend to keep on doing that. Although Texas College may be liable for certain deficiencies associated with the absence of these records, their absence should not bear on the present capacity to administer title IV funds with personnel, new personnel, new administrative policies, and new financial aid procedures.

Mr. Chairman, this amendment simply relieves Texas College, if they make a good-faith effort to furnish such records, from having to produce records that may no longer exist as it seeks to reestablish its title IV eligibility.

Mr. SESSIONS. Mr. Chairman, will the gentleman yield?

Mr. HALL of Texas. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Chairman, we are discussing this issue because this has been an ongoing dialogue that the gentleman from Texas (Mr. HALL) and I have had with the Department of Education. We believe that our work on behalf of Texas College is not only very deserving, but what we are attempting to do here this evening is to reinforce to the Department of Education that we believe that Texas College is making every single effort that they can to comply with the Department of Education and, further, to make sure that they have provided to the Department of Education those things that are necessary for certification.

The reason that we are here is because this discussion is taking place today about education, and we would wish at this time to make sure that the Department of Education knows that we are attempting to work with them; and that the gentleman from Texas (Mr. HALL) and I, while we are offering this amendment, I believe that at this time we would wish not to go further with this amendment.

Mr. HALL of Texas. Mr. Chairman, reclaiming my time, I thank the gentleman.

Most of the issues have already been addressed by Texas College and the subject of repayment agreements have been satisfied by the college and are the subject of an appeal that is filed with the Department of Education. The Department of Education is working with us.

I thank the Chairman and I thank my colleagues for their time.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 411, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 75 offered by Mr. ROEMER of Indiana;

Amendment No. 70 offered by Mr. MILLER of California;

Amendment No. 5 offered by Mr. STUPAK of Michigan.

AMENDMENT NO. 75 OFFERED BY MR. ROEMER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. ROEMER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

The vote was taken by electronic device, and there were—ayes 292, noes 129, not voting 11, as follows:

[Roll No. 130]

AYES—292

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Bachus
Baesler
Baker
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Calvert
Camp
Campbell
Capps
Cardin
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Combest
Conyers
Costello
Cox
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Goode
Goodlatte
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hefley
Hefner
Hilleary
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shays
Sherman
Sisisky
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thune
Thurman
Tierney
Torres
Towns
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates

NOES—129

Archer
Armey
Ballenger
Barr
Bass
Bilbray
Bliley
Boehlert
Boehner
Brady
Bunning
Burr
Burton
Callahan
Canady
Cannon
Chambliss
Chenoweth
Coble
Coburn
Collins
Condit
Cook
Cooksey
Crane
Crapo
Cubin
Davis (VA)
DeLay
Diaz-Balart
Doolittle
Dunn
Ehrlich
Everett
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodling
Goss
Granger
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hobson
Hoekstra
Hunter
Hutchinson
Hyde
Inglis
Johnson, Sam
Kasich
Kelly
Kim
Kingston
Knollenberg
Kolbe
Largent
Latham
LaTourette

Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McDade
McInnis
McIntosh
McKeon
Metcalf
Miller (FL)
Mollohan
Ney
Northup
Norwood
Nussle
Packard
Parker
Petri
Pickering
Pitts
Pombo
Pryce (OH)
Redmond
Regula
Riley
Rogan
Ros-Lehtinen
Ryun
Sabo
Schaefer, Dan
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith, Linda
Snowbarger
Solomon
Souder
Stump
Sununu
Thomas
Thornberry
Tiahrt
Traficant
Weller
Wicker
Young (AK)
Young (FL)

NOT VOTING—11

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Skaggs
Spratt

□ 1844

Messrs. HOEKSTRA, REDMOND, SKEEN, DAVIS of Virginia, GILMAN, FOLEY and ROGAN changed their vote from ''aye'' to ''no.''

Messrs. MCDERMOTT, DUNCAN, CALVERT, JOHNSON of Wisconsin, BLUMENAUER, QUINN, MCHUGH, DICKEY, PAXON, MCCRERY, SALMON, BROWN of California, ADERHOLT, BAKER, MARTINEZ and SPENCE changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 411, the Chair announces the he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 70 OFFERED BY MR. MILLER OF CALIFORNIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. MILLER), on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 393, noes 28, not voting 11, as follows:

[Roll No. 131]

AYES—393

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—28

Barr
Bonilla
Cannon
Coburn
Collins
Cubin
Dickey
Doolittle
Hall (TX)
Herger
Johnson, Sam
Kolbe
Largent
Miller (FL)
Packard
Paul
Pombo
Rohrabacher
Sanford
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Stump
Taylor (NC)
Thornberry
Tiahrt
Wicker

NOT VOTING—11

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Skaggs
Spratt

□ 1855

Mr. FRELINGHUYSEN and Mr. ROYCE changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 5 OFFERED BY MR. STUPAK

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. STUPAK) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 200, not voting 13, as follows:

[Roll No. 132]

AYES—219

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Baker
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blagojevich
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clyburn
Coburn
Conyers
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Fox
Frost

Furse
Ganske
Gejdenson
Gephardt
Gillmor
Gilman
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Largent
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
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McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
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Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
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Ramstad
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Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schumer
Scott
Serrano
Sherman
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thurman
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Wamp
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates
Young (FL)

NOES—200

Aderholt
Allen
Archer
Armey
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
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Clement
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Costello
Cox
Crane
Crapo
Cubin
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Goode
Goodlatte
Goodling
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Hall (TX)
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Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McDade
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Nethercutt
Ney
Northup
Norwood
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Taylor (NC)
Thornberry
Thune
Tiahrt
Tierney
Upton
Walsh
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)

NOT VOTING—13

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Myrick
Neumann
Radanovich
Shaw
Skaggs
Spratt

□ 1902

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. GOODLING. Mr. Chairman, I move to strike the last word in order to announce what the proceedings will be for this evening.

We now have a 2-hour window where there is a 2-hour debate on the Riggs amendment. We will then vote on the Riggs amendment. Then we will have the Campbell amendment. And then we will vote on the Campbell amendment. Then we will have final passage.

So everybody knows, the next 2 hours will be general debate. We will finish the bill this evening.

AMENDMENT NO. 73 OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 73 offered by Mr. RIGGS:

Add at the end the following new title (and conform the table of contents accordingly):

TITLE XI—DISCRIMINATION AND PREFERENTIAL TREATMENT

SEC. 1001. PROHIBITION AGAINST DISCRIMINATION AND PREFERENTIAL TREATMENT.

(a) PROHIBITION.—No public institution of higher education that participates in any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall, in connection with admission to such institution, discriminate against, or grant preferential treatment to, any person or group based in whole or in part on the race, sex, color, ethnicity, or national origin of such person or group.

(b) EXCEPTION.—This section does not prohibit preferential treatment in admissions granted on the basis of affiliation with an Indian tribe by any tribally controlled college or university that has a policy of granting preferential treatment on the basis of such affiliation.

(c) AFFIRMATIVE ACTION ENCOURAGED.—It is the policy of the United States—

(1) to expand the applicant pool for college admissions;

(2) to encourage college applications by women and minority students;

(3) to recruit qualified women and minorities into the applicant pool for college admissions; and

(4) to encourage colleges—

(A) to solicit applications from women and minority students, and

(B) to include qualified women and minority students into an applicant pool for admissions.

so long as such expansion, encouragement, recruitment, request, or inclusion does not involve granting a preference, based in whole or in part or race, color, national origin, or sex, in selecting any person for admission.

(d) DEFINITION.—As used in this section, the term ''public institution of higher education'' means any college, university, or postsecondary technical or vocational school operated in whole or in part by any governmental agency, instrumentality, or entity.

The CHAIRMAN. Pursuant to the order of the Committee of Tuesday, May 5, 1998, the gentleman from California (Mr. RIGGS) and the gentleman from Missouri (Mr. CLAY) will each control 1 hour.

The Chair recognizes the gentleman from California (Mr. RIGGS).

Mr. RIGGS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, let me say that I hope we can approach debating this issue with open minds and open hearts, and that we can stipulate at the beginning of this debate that we are people of good will who can have genuine disagreements at times but who, because of the high elective offices and the public trust that we hold, have an obligation to debate issues such as the one that I put before the House this evening.

I want to say at the beginning of my comments that I acknowledge that discrimination continues to exist in our society and that it is morally wrong, but I believe we will never end discrimination by practicing discrimination, and I believe it is time for the United States Congress to end preferences once and for all.

Now, let me, at the beginning of the debate, explain what my amendment does and does not do. First of all, I should explain that my amendment is substantively different from the amendment of the gentleman from California (Mr. CAMPBELL), which will follow mine. And not to preempt that gentleman, but I am very pleased to have his support of my amendment and intend to reciprocate by supporting his amendment.

My amendment is very simple and straightforward. In a way, I guess it would have been good for the Clerk to actually have read it, because it is concise enough. My amendment is patterned after California's Proposition 209, the California civil rights initiative, and it is intended to bring an end to racial preferences in college admissions.

My amendment very specifically, very succinctly bans public, I say again, public colleges and universities that accept Federal funding under the Higher Education Act from using racial or gender preferences in admissions. My amendment does not in any way,

though, impinge on minority outreach programs or minority scholarships for qualified individuals.

I am very proud of the fact that a couple of years ago I was recognized and honored by the TRIO organization for my efforts to expand the funding for TRIO, which is a minority outreach and minority scholarship program that encourages institutions of higher learning, 4-year colleges and universities, to establish partnerships with secondary institutions of learning, high schools.

So I want to say that I strongly believe in affirmative steps to expand the pool of qualified minority applicants at every public college or university as long as, as long as the school admission decision is not made on the basis of race or sex. I believe that we can achieve the twin goals of diversity in minority outreach without the need for preferences that favor one minority group over another, as has been the case in California, and as I will elaborate as the debate proceeds tonight.

Now, I believe I have a chart here, and maybe we will get it up with the help of one of the pages. I would like to, as this chart goes up, tell my colleagues of some recent polling data that demonstrates, I think unequivocally, that Americans overwhelmingly support legislation to make hiring, contracting, and college admissions race and gender neutral.

Here are the highlights of that polling data. Seven in 10 voters believe that California's Proposition 209 should not be overturned. But more importantly, nearly 9 out of 10, 87.2 percent of Americans, said race should not be a factor in admission to a public college or university. And that included more than 3 out of 4, 75.7 percent, of African-American voters who were surveyed and who said that race should not be a factor in admission to a public college or university. So I believe the time has come for this body to act.

I realize that there are a lot of people who wish that this debate would go away or at least could be held for another date, preferably beyond this election cycle. But as our friend, my friend and colleague, the gentleman from Oklahoma (Mr. J.C. WATTS), told me the other day, there is never a wrong time to do the right thing.

I want to make it very, very clear that I intended to offer this amendment last year to the annual spending bill, the appropriations bill for the Department of Education, but waited for this debate and this day to offer this amendment so that it could be more appropriately discussed in the context of reauthorizing the Federal/taxpayer-funded higher education programs.

I do not want my colleagues to be misled about my amendment. I have made modifications to this amendment to make it more acceptable to more Members of this body. First of all, with some reservation, I excluded private colleges and universities, even though almost all private colleges and universities receive substantial Federal-taxpayer funding for student financial aid under this legislation.

Secondly, as I will point out in a later colloquy with our colleague, the gentleman from Arizona (Mr. HAYWORTH), I specifically excluded tribally-run institutions, colleges and universities on tribal reservations, or Indian lands, even though most of them are public, and my bill now applies only to public colleges and universities. But I did that because of the concerns that I heard, loud and clear, about treaty obligations, tribal sovereignty, and the government-to-government relationship enjoyed between the United States of America, the Federal Government, and tribal governments around the country.

My amendment does not ban single-sex schools. In fact, it expressly allows them. It does not prevent courts from fashioning remedies to actual discrimination. There is ample authority for such action under current civil rights law dating back to the 1964 Federal Civil Rights Act.

My amendment does not, as I said earlier, prevent schools from minority recruitment outreach or scholarships, and it does not, and I say this to my Republican brethren, my more conservative colleagues, it does not increase the role of the U.S. Department of Education in admissions oversight. In fact, it would stop the Department of Education's Office of Civil Rights' practice of telling public colleges and universities to grant admission preferences even where courts have expressly ruled against them, as in the case of the University of Texas Law School and the Hopwood case.

So I want to make clear that people should not be dissuaded from doing what is right under the Constitution by erroneous arguments that opponents to my amendment may make during the debate a bit later.

As the author of California's civil rights initiative, Proposition 209, Ward Connerly pointed out, who is an African-American businessman who serves on the University of California's Board of Regents, granting an individual preference based on their race or gender means another individual has been discriminated against based on their race or gender. And that is as succinct and compelling an argument as I can make for my amendment this evening.

□ 1915

I think we all know that different groups suffer under affirmative action in admissions the way it operates in America today. Minority group members suffer because when they are admitted under lower standards; they oftentimes perform less well. They need remedial help. They are at risk of dropping out. Many of them do not complete a 4-year college education and obtain a college degree. And unfortunately, other people on that campus and in the college community all too often make that link between subpar performance and someone's skin color.

That is wrong. That is as discriminatory in thought as racial preferences are in practice. Stereotypes are reinforced, not diminished.

Secondly, individuals who are not members of minority groups but are otherwise academically qualified students are oftentimes excluded in order to admit individuals with lesser credentials.

Let me just tell my colleagues one of the arguments that is being made here. I want to make reference to a recent article in the New Republic by a man, Nathan Glazer, who wrote a book back in 1975 titled, provocatively enough, ''Affirmative Discrimination,'' and who is now apparently reconsidering his position and comes to the conclusion that affirmative action is bad but banning it is worse.

In the context of this article he says, ''I have focused on the effects of affirmative action, or its possible abolition, on African Americans. But of course, there are other beneficiaries. Asian Americans and Hispanics are also given affirmative action.'' Then he goes on to say, and I wonder if these words strike my colleagues as discriminatory as they strike me, ''But Asian Americans scarcely need it.'' He and others contend that most Asian Americans, most young people of Asian ancestry come from affluent communities and therefore have some sort of socioeconomic advantage that most African Americans do not have.

Well, have my colleagues ever been to a Chinatown in a big city in America? Would we consider that to be an affluent community? Do we lump all Asian Americans together, including Cambodians, Laotians, the Mung population, all the recent immigrants to America, many of whom have struggled to obtain American citizenship, of Asian American ancestry?

Those kinds of words are inherently discriminatory. We cannot, we should not allow a practice that pits one racial group against another. That is what has happened in California. That is part of the genesis, if you will, for Proposition 209. Asian Americans were being excluded from consideration for admissions because the University of California was practicing a policy that gave preference to other minority groups, namely African Americans and Hispanic Americans.

Is that fair? Is it right? Will someone come down to the well tonight and argue that that practice should be continued? What would my colleagues say to those Asian American young people and to those families in California that have been blatantly discriminated against as a result of these practices?

I also want to point out that colleges and universities are lessened by the hypocrisy of ostensibly being in favor of equal opportunity, but actually practicing discriminatory policies. And, colleagues, it is going on all over the country.

Here is an article from USA Today dated November 28, 1997. It says how

Michigan admittance standards differed.

Now, there is a chart here. My colleagues have to understand the background of this chart. This chart came to light through a Freedom of Information request filed by philosophy professor Dr. Carl Cohen, who is a former, and I quote from the article, former board member of the ACLU, American Civil Liberties Union, and the author of a 1995 book called ''Naked Racial Preferences: The Case Against Affirmative Action.''

Here is the chart, and this is the basis for current litigation filed by two students against the university, two white students charging bias by the University of Michigan. I quote from the article with respect to this chart.

I just want to tell the young lady here, the page, that she will not find that chart in the charts we prepared. But I will make it available and I will make sure it is inserted later, when we rise from the Committee of the Whole and go back into the House, into the RECORD.

But I quote from the article. At the heart of the lawsuit filed by these students is what opponents of affirmative action call ''the smoking gun.'' A chart, this chart, my colleagues, right here, and would I love to share this with my colleagues if they would like to come up and take a closer look, a chart that, according to the USA Today article is used by the university's admissions office to decide who gets in and who does not. This chart clearly, indisputably demonstrates that whites and minorities with identical grades and test scores meet different fates. The white applicants are rejected or deferred while minorities are automatically admitted. That is what this chart shows.

And as Dr. Cohen points out, the point I just tried to make a moment ago, and he can make it better, I quote Dr. Cohen. ''I want the university,'' referring to the University of Michigan, ''to be a place, to live up to its ideals, not betray them to accomplish a short-range objective. Constitutions are designed to prevent taking shortcuts.''

And lastly, the community as a whole suffers under affirmative action the way it now operates because the different or disparate treatment of racial groups breeds mistrust. The time has come to put an end to affirmative action. And while I say that as it is being practiced in college admission policies, I hasten to add that I have worked long and hard to try and create more opportunity, better opportunity, I hope some day equal opportunity for every American.

And as the gentleman from Oklahoma (Mr. WATTS) said to me, if we want affirmative action in American society, and I know he signed on to a Dear Colleague with our good friend, the gentleman from Georgia (Mr. LEWIS), but as my colleague told me the other day, if we want affirmative action, we have to start by approving the quality of primary and secondary education in America. That is where affirmative action begins, not in higher education. It starts in ensuring that every child in every elementary school around the country has the opportunity to receive a first-class, a world-class education. That is the very point that the gentleman from Pennsylvania (Mr. GOODLING) has made in supporting my amendment.

I want to quote from the statement that he sent out. He said that he supports my amendment and said, ''The continued use of preferences in admissions does nothing but pit one minority group against another, while building a society of legal and ethnic divisions. It is time to put a stop to this discriminatory practice.''

He goes on to say that my amendment embodies the idea of a color-blind society. Well, I am not the one that advanced the idea of a color-blind society. In modern times, that vision is the vision of Dr. Martin Luther King, Jr. I think everybody knows that. He was the one that talked about a day when someone would be judged by the content of their character, not the color of their skin.

But the chairman and I have, and I hope most Members of this body on a bipartisan basis, can agree that the best way to help women and minorities succeed in college and later in the workplace is by giving them a sound education at the primary and secondary level. Quality education is the key, not some system as has evolved at too many public colleges and universities around the country of contrived admission preferences or quotas for particular groups.

Mr. LEWIS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Georgia.

Mr. LEWIS of Georgia. Mr. Chairman, I say to my colleague, the gentleman from California (Mr. RIGGS), I knew Martin Luther King, Jr., very well. I worked with him for many years. He was my friend, my leader, my hero, my brother. If he was standing here tonight, I tell my colleagues, he would say he believes in a color-blind society, but he would tell us that we are not there yet, and he would not be supporting the Riggs amendment.

So I think that it is not right to use Martin Luther King in this manner.

Mr. RIGGS. Mr. Chairman, reclaiming my time, I respect the opinion of the gentleman from Georgia.

Mr. Chairman, I will continue for just a moment to say that Martin Luther King, I think we can agree on this, he dreamed of the day, he spoke of the day, he preached of the day when all Americans would participate freely in the American dream.

I cannot see how continuing institutionalized discrimination, or if we want to go one step further, institutionalized racism, and I do not use that word lightly because I know it is an explosive word, I cannot see how that moves us towards the realization of Dr. King's vision. Because I believe institutionalized discrimination is inherently unfair, it is undemocratic, and I think ultimately it is anti-American.

With all due respect to the gentleman from Georgia (Mr. LEWIS), who obviously knew Dr. King well and worked with him, I would like to believe that Dr. King would agree that as we approach the dawn of a new millennium, now is the time to try to move our country in the direction of a post-affirmative action era where we really can build, working as individuals and human beings and as American citizens and as children of God, a color-blind society.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield myself such time as I may consume.

First of all, Mr. Chairman, I would like to correct the RECORD. The previous speaker referred to the TRIO program as a minority outreach program, but it is not. It is a disadvantaged outreach program, and the majority of students enrolled in TRIO are white.

Mr. Chairman, I rise in opposition to the amendment being offered by the gentleman from California (Mr. RIGGS). His attempt to ban the use of affirmative action efforts by colleges and universities is nothing more than a scheme to return the system of higher education to the bad old days of racial segregation. If we follow that direction, our schools will again become a bastion of white, male, good old boys.

In addition, this amendment completely shatters the bipartisan nature of H.R. 6, which has been successfully developed by the members of the Committee on Education and the Workforce. It is a cruel hoax, Mr. Chairman, to declare that we live in a color-blind society in which only merit counts. Merit is only one criterion for college admissions.

Children of alumni have always received special treatment. Children of wealthy donors have always been shown preferential treatment. Athletic ability and musical talents have always been major considerations when deciding whom to admit to colleges and universities. Colleges routinely seek to have classes which reflect geographical differences and other kinds of diversity in the belief that diversity is good educationally.

Affirmative action was not designed to deny rights unjustly to those qualified, but to provide remedies for those qualified who are unjustly denied. For this Congress to now prohibit efforts by university leaders to correct centuries of inequitable admission practices is an arrogant abuse of Federal power. It has taken the Nation's colleges nearly 3 decades to develop and implement admission policies which have begun to close the educational gap existing between minorities, women, and their white male counterparts.

Mr. Chairman, this amendment is identical to Proposition 209, passed by

California voters, and its effects on minority admission to institutions of higher learning will be just as devastating. Admissions of African American, Latino, and American Indian students for next fall's classes have plunged by more than half at the University of California at Berkeley; and admissions of minorities to the University of California's three law schools have dropped 71 percent for blacks and 35 percent for Latinos.

Mr. Chairman, there is no validity to the argument that enrollment declines are indicative of previously ineligible students being admitted to these institutions of higher learning. The fact is that over 800 minority students with grade point averages of 4.0 and SAT scores of over 1,200 were denied admission to the University of California at Berkeley.

The simple fact is that some believe women, blacks, and Latinos should not be afforded a higher education. The Riggs amendment would embody that belief in Federal law. It was bad policy during the awful period of Jim Crow laws in America, and it is bad policy now.

Mr. Chairman, measured by any benchmark, access to equal educational opportunity remains a distant dream for racial minorities. I strongly urge a ''no'' vote on the Riggs antiaffirmative action amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Chairman, I did not go to Harvard. I did not attend Yale. I could not. I could not even attend Troy State University, just a few miles from my home, because of the color of my skin.

For 200 years, millions of African-Americans could not go to college. The doors of higher education, of opportunity, were shut simply because of the color of our skin.

□ 1930

Today African-Americans and other minorities are attending Troy State, Harvard, Yale, and nearly every institution of higher learning because of merit and because of affirmative action. Affirmative action opens the door for those who grew up with less hope and less opportunity, because of the color of their skin, because their parents did not go to college, because their family has yet to overcome 200 years of government-sanctioned discrimination.

Opponents of affirmative action say they want a colorblind society, but ending affirmative action is not colorblind. It is blind to centuries of discrimination, blind to the racism that is still deeply embedded in our society, blind to the barriers that continue to confront generation upon generation of African-American and other minorities.

Mr. Chairman, we have fought too long and too hard and come too far. We cannot let affirmative action be destroyed. People have gone to jail. People have been beaten. People have lost their lives. Now we must fight one more time against those who wave the banner of fairness but really want to slam the door of opportunity in the face of young people across our Nation.

Mr. Chairman, I urge our colleagues to stand up for diversity, hope and opportunity by defeating this amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. I thank the gentleman for yielding me this time. Mr. Chairman, I urge my colleagues to defeat the Riggs amendment.

I want to talk for a moment about some truths and some myths, because here is the truth. When the door of opportunity is opened to students who are called special admits or affirmative action, they perform equally well to the other students. They perform equally well. The Chronicle of Higher Education recently published a study which compared the graduation rates of special admit medical students with non-special admit medical students. Ninety-eight percent of the non-special admit students graduated. Ninety-four percent of the special admit students graduated, an insignificant statistical difference. Once you open the door, everyone who is willing and able can walk through it equally.

This amendment slams the door. Let us talk about the myth of merit. Let us perfect this amendment to make sure it does not perpetuate that myth. Let us have merit. Let us have a Federal law that says if your mother or father is on the board of trustees of the university, you do not get special treatment. Let us have merit. Let us say if your aunt or your uncle or your grandparents gave a lot of money to the school, you do not deserve special admission. Let us have merit. Let us say if you are the son or daughter of the member of the State legislature or the mayor or a Member of the United States Congress, you do not deserve special admission. Let us have merit. Let us say that if you are not someone from a special geographic region of the country or state of the world you do not deserve special treatment. Let us have merit. Let us say that if you are not someone from a different ethnic group that is not fully represented, you do not deserve special admission or special treatment.

Merit is a concept that lives only in mythology. It does not live in the admissions offices. This amendment should be defeated for that reason.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. I thank the gentleman for yielding me this time.

Mr. Chairman, legislative language similar to the proposed amendment has been enacted in Texas and California. After the adoption of those policies, educational opportunities for minorities plummeted to their lowest levels since the 1960s and in some schools those opportunities disappeared altogether. You cannot change the known impact of this amendment by using glorious rhetoric or a misleading title or results of a slanted poll. We know what this amendment will do.

Mr. Chairman, the admissions policies have never been totally fair. Those who are children of alumni get preferences, children of large contributors get preferences, those who can afford to pay tuition without a scholarship get preferences, those who can perform well on a culturally biased test get preferences.

Mr. Chairman, affirmative action serves as a counterbalance to those disadvantages that minorities suffer. Without affirmative action we will return to the unlevel playing field and turn the clock back to the 1960s.

Mr. Chairman, the Supreme Court has limited the use of affirmative action to policies which are narrowly tailored to address the compelling State interest. So as the need for affirmative action drops, so will the practice of affirmative action.

This amendment, however, will prohibit the use of affirmative action even in cases where there is a need to remedy proven cases of racial discrimination. Mr. Chairman, you can quote Martin Luther King, you can talk about dreams, but we know what this amendment will do. Minority opportunities will plummet if this amendment is adopted. That is why those of us who celebrate diversity in America are opposing this amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I rise in opposition to the Riggs amendment. This amendment would involve an unprecedented Federal intrusion into the admissions practices of colleges and universities. It would require an extensive apparatus to monitor admissions policies nationally. This seems monumentally unwise.

Twenty years ago, the Bakke decision developed a careful and delicate balance for college admissions. Quotas were declared unconstitutional, as they should be. Gender and race can never be the sole or decisive factor in the admissions process. This made sense then and it makes sense now. But colleges and universities should be able to reach out to widen their pool of applicants, to bring previously deprived or disenfranchised people into higher education without fear of legal retribution.

I know how this works from my years of experience as an admissions officer in a graduate department of a large university. Affirmative action offers a

way of taking into account the backgrounds from which students come, assessing their true potential, and opening the doors of opportunity. For the Federal Government to interject itself into these decisions, to reduce flexibility, to force the use of overly narrow or rigid criteria, would be most unwise.

Affirmative action, Mr. Chairman, is about fairness and equal opportunity for individuals. But it is also about community: about the academic community itself, diversifying that community to make education a broadening and enriching experience. And it is about serving the wider community, recruiting a student body that reflects the society being served, and training doctors and lawyers and teachers and business people and others to serve all elements of that community.

The Riggs amendment ignores this experience and threatens these values. For those reasons, it ought to be rejected.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, we have worked hard in this country to create the best colleges and universities in the world. I have actually devoted much of my time in Congress to expanding access to higher education for every student in America. In fact, is that not what this higher education bill is supposed to be about, expanding education to every student in America?

I rise in strong opposition to the amendment offered by the gentleman from California (Mr. RIGGS). Quite simply, this amendment, which was modeled after California's Proposition 209, blocks opportunity to higher education for women and minority students across the country. It is not a mystery that dismantling affirmative action destroys needed opportunity for America's college campuses.

Look at my own State and the State of Mr. RIGGS, California, where the rollback has already begun. The University of California Boalt Law School, one of the best public law schools in America, enrolled only one African-American student in its freshman class last fall. Also at UC-Berkeley African-American admissions have plummeted by 66 percent. Latino enrollment fell by 53 percent. At UCLA, African-American admissions in the freshman class dropped by 43 percent while Latino enrollment fell by 33 percent. At California graduate schools, where the clock has already begun ticking and been turned back, both medical schools and law schools experienced a significant decline. This is what I call stepping backward in our goal, our goal to make higher education accessible to all Americans.

Mr. Chairman, women and minorities in America simply cannot afford to have this crucial support chipped away. Let me review a few simple facts with my colleagues. Women earn 71 cents for every dollar compared to a man. Mr. Chairman, I ask my colleagues to please not vote to roll back affirmative action.

Mr. RIGGS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this amendment. This is not repealing affirmative action. It is reforming it and making a giant step forward while preserving all civil rights requirements.

Mr. Chairman, I rise in support of this amendment to the Higher Education Act. This amendment eliminates arbitrary quotas and set asides and erases the reverse discrimination that has grown over the years.

This amendment reaffirms our encouragement of affirmative action through expansion of the applicant pool and active recruitment of qualified women and minorities. At the same time this amendment makes it clear that such encouragement and recruitment does not involve granting a preference, or fulfilling a quota.

This amendment has been changed from its initial form, in such a way that positively reaffirms our nation's commitment to affirmative action's goals and ideals.

In other words we are reforming affirmative action as we know it, while protecting civil rights for all people.

CURRENT ADMISSIONS

We all know, admissions to colleges now involve preferences and quotas.

REVERSE DISCRIMINATION

This amendment reafffirms the original concept of affirmative action through vigorous and systematic outreach, recruitment and marketing efforts among qualified women and minorities.

This amendment seeks to restore the colorblind principle to federal law by higher education institutions from granting any preference to any person based in whole or in part on race, color, national origin, or sex.

When affirmative action and nondiscrimination were first enacted, through Kennedy's executive order in 1963 (establishing the President's Committee on Equal Employment Opportunity) and through the Civil Rights Act of 1964, the goals were: promotion and assurance of equal opportunity without regard to race, creed, color or national origin; encouragement of positive measures towards equal opportunity for all qualified people, and expansion and strengthening of efforts to promote full equality of employment opportunity.

MAINTAINS CURRENT ANTIDISCRIMINATION LAWS

Before opponents of this amendment raise their voices, let me also add that this legislation absolutely maintains this nation's existing antidiscrimination laws. If it did not, I would not be here.

This amendment maintains existing Civil Rights Laws, which are there to remedy individuals who are victims of discrimination.

Further, it is consistent with Civil Rights Laws by prohibiting discrimination.

Over the course of time, I have been a strong supporter of affirmative action. Its goals of equal opportunity, diversity and a ''colorblind'' society are laudable and supported by the vast majority of thinking Americans.

However, over the course of my career, I have watched the implementation of affirmative action amount to the use of discriminatory quotas, set asides, preferences and timetables based on sex and race. This is evidence of the ''law of unintended consequences.''

We should be reforming comprehensively affirmative action. But we have not been able to do that.

If we have to, we will do this one bill at a time, one amendment at a time.

Race and sex should not matter in college admission, but higher education institutions make it matter by counting, labeling and, ultimately, dividing Americans.

Today's affirmative action is flatly inconsistent with our national commitment to the principle of nondiscrimination. Our founding principles, and I might add, our current laws, require that the government treat all of its citizens equally and without regard to race and sex.

I know that discrimination exists in today's America. There's no denying it. But we cannot attack discrimination with a different style of discrimination. Discrimination in the name of equal treatment is a modern-day oxymoron.

Mr. Chairman, affirmative action did its job in its day.

But the day it became more quotas than opportunity is the day it became part of the problem and not part of the solution.

Equal opportunity has always been at the core of the American spirit. It's time we return it to the core of federal law and practice.

With the understanding of the recent court costs as Rep. CANADY has annotated—the handwriting is on the wall. Tonight let us take this major step toward reform while maintaining affirmative action.

I urge your support of this amendment.

Mr. RIGGS. Mr. Chairman, I yield myself 3 minutes to respond to the last speaker on the other side, my friend and northern California colleague who represents an adjacent district to me.

She spoke a moment ago about the University of California's law school. I would like to refer her to an article in today's newspaper that is very timely to this evening's debate headlined Boalt Minority Admissions Up 30 Percent. I quote from the first paragraph of the article: ''In the school's second year of colorblind admissions, offers to black and Hispanic students are up 30 percent, Boalt Hall School of Law announced on Tuesday.'' It goes on to quote the dean of Boalt Hall as saying, ''I think the increase had to do with the efforts made at outreach that we were very welcoming of minority applicants.''

Furthermore, I want to put to rest this misinformation regarding the University of California system. First of all, I will go ahead and quote from John Leo's column in U.S. News and World Report of April 27. He says, ''There is no white-out, closing of doors, or Caucasian University. In the eight-college University of California system, only two of five students are white. At the University of California at Berkeley, the figure is one in three.''

Then he goes on to quote in the article the provost of the University of California, Judson King, who says, and I quote right from the article, ''In fact, the drive to raise minority numbers at the top two colleges in the system, Berkeley and the University of California at Los Angeles, UCLA, had the effect of creating racial imbalances at the other six. Judson King, provost of the University of California, acknowledged this by saying that the end of preferences was evening out diversity across the entire University of California system of all eight campuses.''

Ms. WOOLSEY. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Chairman, I would just like to remind my colleague that what I referred to is one African-American enrolled in Boalt Law School in the fall. One thing. There is a difference between inviting admissions and enrollment, because there are a lot of steps in between. Part of that step is feeling welcome.

Mr. RIGGS. Mr. Chairman, I have to disagree with the gentlewoman. It says, ''The school admitted 32 African-Americans for the fall of 1998, almost twice as many as 1997, but less than half the number accepted in 1996, the last class admitted under affirmative action.'' Looking at how the pendulum now swings back, ''The number of Latino students held steady at 19, but Chicano, or Mexican-American students rose 34 percent, to 41.'' It says, ''In 1996, a total of 78 Latino and Chicano students were admitted.''

So here is a university that is focusing on outreach, affirmative steps to expand, as I said earlier, the pool of minority applicants. That is why we have included language in our bill suggested by the gentleman from California (Mr. COX) and the gentlewoman from New Jersey (Mrs. ROUKEMA) that very specifically spells out the recommended steps, the affirmative steps that public colleges and universities can do to expand the pool of minority applicants. We strongly encourage them to pursue these outreach efforts as the University of California Law School at Boalt Hall is doing.

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Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. CANADY) the leader to end racial preferences and discrimination in Federal Government programs and policies.

Mr. CANADY of Florida. Mr. Chairman, I appreciate the time to discuss this important issue, and I am pleased to rise in support of the amendment offered by the gentleman from California (Mr. RIGGS). This is an important amendment, an amendment which deals with a fundamental question of justice in our society.

In 1871, in the course of the debate over a civil rights bill designed to outlaw segregation in public accommodations, Senator Charles Sumner said this:

Any rule excluding a person on account of his color is a indignity, an insult, and a wrong.

Senator Sumner was right. It is wrong to classify individuals on the basis of race. If our history as Americans teaches us anything, it should teach us that any such practice is inherently pernicious. It is a violation of our fundamental principle as Americans to classify students by race; then to tell some students that they will be admitted to a school because they belong to a preferred group, and to tell other students that they will be denied admission because they belong to a nonpreferred group. Such a policy is discrimination, pure and simple, and it is wrong.

It is wrong for many reasons. It is wrong because it imposes an unfair burden on innocent individuals on account of their race. Students who have worked diligently, including many students who have fought to overcome serious social and economic disadvantages, are denied admission to the school of their choice because other less qualified students gained admission based on a racial preference. Students are excluded not because of any wrong they have done, but as a part of an effort to redress historic wrongs. In the process, unfortunately, the fundamental requirements of justice are forgotten while the dreams and aspirations of the innocent are trampled underfoot.

It is wrong because it sets students up for failure. In the name of providing opportunity, preferential admission policies produce disappointed hopes. Students who could have been successful in less competitive institutions are put in programs for which they are not prepared and in which they do not succeed. The evidence is clear. Dropout rates at competitive universities are in many cases 200 to 300 percent higher among students admitted from preferred groups than among groups admitted from nonpreferred groups.

At the University of California at Berkeley, for example, the undergraduate dropout rate among one preferred group has reached as high as 42 percent. Thus the effort to provide assistance to students through preferential admissions policies often backfires and harms the very students they were supposed to benefit.

The law of unintended consequences has rarely been illustrated more clearly. It is wrong to utilize preferential admissions policies because it reinforces prejudice and discrimination in our society. Whenever public institutions of higher education sort, divide, and classify applicants for admission into racial groups, they send a powerful and perverse message that we should judge one another on the basis of race.

Now that is exactly the wrong message for us to send. Colleges and universities should deal with students as individuals on the basis of their individual qualifications. Students should not be reduced to the status of mere representatives of various racial groups. Schools that employ racial classifications and preferences tell students in the preferred groups that they will be judged by a lower standard and will not be expected to meet the same standard that other students must meet. That sends a message that is corrosive of the respect owed to all students. It is a message that increases divisions and causes untold harm. It is a message that should not be supported by Federal tax dollars.

Now the Members of this House should not be diverted from the truth by the barrage of attacks made against this amendment. There is nothing novel or radical about this amendment. On the contrary, this amendment reaffirms with respect to public universities and colleges the provisions of Title VI of the historic Civil Rights Act of 1964. That act provides in section 601 as follows:

''No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of'', and I think it is important for Members to focus on this, ''No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.''

Now that is the right policy; it was the right policy when the Congress adopted it in 1964, and it is the policy that this House should support this evening. Unfortunately, those plain words of the 1964 Civil Rights Act have been ignored in a process of administrative change and in the courts. We need to reaffirm that policy tonight and get back to the fundamental principle of nondiscrimination in this country.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Chairman, how sweet it would be if what my colleague, who just spoke, said were true; that we are a society based on equality of the laws and application of those laws. But the reality is we are not yet there, and if my colleagues do not believe it, just talk to those FBI agents.

Not too long ago, African Americans who sat down at a fast food restaurant to get some food never got served.

Or talk to the two young ladies in California who went to an ice cream parlor not too long ago and asked for ice cream, and were asked for ID before they would get any service whatsoever because they looked Hispanic.

We are not there yet, and that is the truth about it. It would be nice to base something on merit, but numbers do not give merit. And if my colleagues have seen our public schools and they see where most minorities and poor people are, they will understand why we cannot just base things on merit,

because someone can have a 4.0 in some of our inner-city schools and they cannot compete with a 3.5 from some of the suburban schools.

That is where we are today. But worse than that, the amendment does not cure a real problem we have. My wife happens to be a physician, a professor of medicine at a university here, and if she stays there long enough, our three children, who are very young right now, will have an opportunity to go to that university, even if there are other children who grow up and get better grades and get better scores than my children do. Because my wife happens to work at that university, she will get her kids in. Great for me and my wife because now she is a professor there. But my parents and her parents were never professors. They were farm workers. My father was a laborer, my mother was a clerk typist; they could not have said that.

We do not have the justice in this world that allows the children of everyone else to have parents who will be professors who can get their children into school. And as my father used to tell me when he was younger, that sign outside that restaurant that would not let me come in with the dogs, because it said ''No Mexicans or dogs allowed,'' and, by the way, my father was born an American citizen, are not there anymore, but they still affect us all. In the same way that he could not walk into a restaurant not long ago, we cannot still walk into some of those universities.

Defeat this amendment.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Let us not stoop to nonsense in this, the people's House. Affirmative action was put in place to right historical wrongs, wrongs of sexism and racism. This amendment turns the clock back 30 years. Women and minorities were not underrepresented in colleges because we were stupid. We knew that we were underrepresented because of sexism and racism. And today we are not stupid. We know what this amendment does. It turns the clock back; back to a day that we should all have been quite ashamed of.

We understand this issue; women and minorities, we know. We know why this amendment was put in place, and I urge my colleagues to vote no on this amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Chairman, I rise in opposition to the Riggs amendment which attempts to deny the existence of racial and gender history in this country. It overlooks the reality of discrimination and pretends that this country has made more progress than what it has actually experienced.

The fact of the matter is that this amendment is a bold, unadulterated attempt to turn back the clock of inequity before there has been ample opportunity and ample time to experience the benefits of some modicum of affirmative action.

I heard the gentleman earlier speak and talk about dreaming and mentioned Dr. King in his deliberations, and I thought to myself that if Dr. King had been dreaming about this amendment, he would have awakened quickly with a terrible nightmare.

The fact of the matter is that amendments like this one provoked Langston Hughes to ask the question: What happens to a dream deferred? Does it dry up like a raisin in the sun? Fester like a sore and then run?

We cannot allow the dreams to dry up, we cannot allow the clock to be turned back. We must defeat the Riggs amendment, and I urge all of my colleagues to vote against it.

Mr. CLAY. Mr. Chairman, I yield myself 30 seconds just to correct the record.

Mr. RIGGS, the gentleman from California, stated that it was a great increase at 30 percent of blacks and Hispanics at Boalt Law. Let me explain to my colleagues what that increase was. It was an increase of 14 students, black and Hispanics, from 37 to 51, out of a total of 857 students that Boalt admitted.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, if there is a single Member of this House that believes that racial discrimination is nonexistent in America today, then I will vote for the Riggs amendment.

That is what I thought.

Mr. Chairman, I hope and pray that I will live long enough to see racial discrimination ended in this country. Unfortunately, I doubt that I will live that long, and certainly that day has not yet arrived. Until that day has arrived, affirmative action is a necessary limited means of using, of ensuring that equal opportunity is more than a hollow phrase in a high school civics textbook.

The fact is, the Supreme Court has limited affirmative action to be a tool to ensure equal opportunity where discrimination has been proven. That is a vital tool in today's society where the problem is hardly that we have too many minorities in our public and private universities and colleges of America.

Under the Riggs amendment, if Mark Furman had been an admissions director at a major public university, the wrongs of discrimination could not be righted by affirmative action.

In the name of ending affirmative action, the Riggs amendment would institutionalize discrimination; and that, Mr. Chairman, is wrong.

If there is a single Member of this House who believes that minorities living in the third ward of inner-city Houston receive an equal education with children of the privileged families of Highland Park in the Dallas area, then perhaps I could understand why some would vote to end affirmative action.

Mr. Chairman, it is interesting to me that some of the same people who want to use tax dollars to subsidize elite private prep schools would also argue against leveling the playing field of opportunity for children attending low-income public schools. Where is the fairness in that?

Mr. Chairman, until the 1960s, many colleges and universities excluded minorities for one reason and one reason alone: the color of their skin. Where is the fairness in allowing those same colleges to give privileges of legacy to the white children and grandchildren of those former white students, while legacy preferences simply do not exist for minorities? The doors were not open to them.

Mr. Chairman, when Republicans took charge of this House, they appointed dozens and dozens of high school interns from all over America. And know what? Not a single one, not a single one was African American. And if that is the future vision of equal opportunity under Republican leadership, then I want no part of it.

And finally, it is interesting to me that some of the very people supporting the Riggs amendment, the same people who have voted to cut spending month after month for the enforcement of laws in America against discrimination; where is the fairness in that?

Rather than quoting Dr. Martin Luther King today, I wish some of the proponents of the Riggs amendment would fight every day for the ideal of equal opportunity for which Dr. King lived and died.

Vote no on the Riggs amendment.

Mr. RIGGS. Mr. Chairman I yield myself 1½ minutes to respond to the last speaker.

The gentleman should not be throwing stones in his glass house. If we are going to examine our own internal practices in the United States House of Representatives, perhaps we could look at 40 years of control by the Democratic Party of this institution; how many female Members of Congress currently hold places in the Democratic Party leadership in the House of Representatives, versus the example that we have tried to set for America by advancing female Members in our ranks.

But I want to specifically go to the comment of the gentleman from Texas (Mr. EDWARDS). He said if one person, one person could convince him that affirmative action, racial preferences in colleges admissions is wrong, that he might reconsider and vote for my amendment.

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Well, let me suggest to the gentleman from Texas (Mr. EDWARDS) that

that one person is none other than the Attorney General of the State of Texas, the top Democrat.

Mr. EDWARDS. Mr. Chairman, would the gentleman yield since he is quoting me?

Mr. RIGGS. Mr. Chairman, I am not going to yield.

The State's top Hispanic elected official. Now, what did the United States 5th Circuit Court of Appeals decide in the Hopwood case? Hopwood v. The University of Texas, I quote: ''The 5th circuit ruled that diversity does not justify preferential admissions based on race.''

Mr. EDWARDS. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. The ruling effectively ended racial preferences in admissions to the University of Texas.

So, what do university leaders do now, according to two articles, the San Antonio Express News and another Texas newspaper furnished to me by our colleague, the gentleman from Texas (Mr. LAMAR SMITH). I quote from the San Antonio newspaper:

> Attorney General Dan Morales spurned a plea Tuesday of last week by State university leaders to fight to restore affirmative action. Morales said that he denied the request by the University of Texas leaders on legal and policy grounds.

Now I quote to the gentleman from Texas (Mr. EDWARDS):

> Racial quotas, set-asides and preferences do not, in my judgment, represent the values and principles which Texas should embrace. I strongly believe that decisions based upon individual merit and qualification are far preferable to decisions based on race or ethnicity.

Mr. Chairman, I yield to the gentleman from Arizona (Mr. HAYWORTH) for the purposes of engaging in a colloquy.

Mr. EDWARDS. Mr. Chairman, will the gentleman yield? Since the gentleman used my name and misquoted me, will the gentleman yield?

Mr. HAYWORTH. Regular order, Mr. Chairman.

The CHAIRMAN. Regular order has been called for.

The gentleman who has the floor has yielded time to the gentleman from Arizona (Mr. HAYWORTH).

Mr. RIGGS. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. HAYWORTH) for the purposes of engaging in a colloquy with the chairman of the full committee, the gentleman from Pennsylvania (Mr. GOODLING).

Mr. HAYWORTH. Mr. Chairman, I thank the Chairman of the Committee of the Whole House, and I thank the gentleman from California (Mr. RIGGS), my friend and the chairman of the subcommittee; and I am pleased to join my friend, the chairman of the full committee, the gentleman from Pennsylvania (Mr. GOODLING) to discuss how this amendment may have been modified.

Mr. Chairman, it is my understanding the Riggs amendment has been modified to exempt tribal colleges. Could the gentleman confirm that for me?

Mr. GOODLING. Mr. Chairman, if the gentleman will yield, my good friend from Arizona (Mr. HAYWORTH) is correct. The deference to Native American sovereignty in the Riggs amendment was modified to alleviate concerns that Members had raised about tribal colleges and how the amendment would have affected Native American students seeking admission to those colleges. This applies as well to facilities operated by the Bureau of Indian Affairs for Native Americans.

Mr. HAYWORTH. Mr. Chairman, reclaiming my time, I thank the gentleman for his help in making this important change. I know the gentleman realizes how important our constitutional and treaty obligations are to Native Americans, and I believe with the changes that have been made, this amendment now protects the unique nature of tribal colleges, a unique nature reaffirmed in Article I, Section 8 of our Constitution and in subsequent treaties.

Accordingly, I urge adoption of this amendment.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, I would like to make three points in response to the gentleman's comments.

First, he misquoted my statement on the floor. Secondly, what has happened in Texas with the ending of affirmative action is a perfect example of why we should oppose the Riggs amendment. Thirdly, if the gentleman wants to quote minorities on affirmative action, I would point out for the RECORD that the only African-American Member of the House, who is also a Republican, happens to be opposing the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

I rise today in strong opposition to the Riggs amendment. It is an extreme measure designed to deny access to higher education to members of minority groups and women.

The fact of the matter is that education is fundamental to social advancement in our society. The difference in income is tremendous. Those with higher education, men make $16,000 on average more than men without higher education. For women, it is almost double when we compare women with a college education to those without.

Affirmative action has served over the last 20 years to create opportunity for large numbers of African Americans, Latinos, Asians and women, to gain access to higher education, and in turn, to gain access to economic prosperity. However, the proponents of this amendment would deny that opportunity to these folks in minority groups.

Why? Because they want to propagate to the American public that somehow we have reached a level playing field and that discrimination does not exist. On its face, that is ridiculous, but tonight I would like to look at this so-called level playing field.

I think what we find is that, in fact, it is not level. According to EEO, there have been 80,000 discrimination complaints filed over the last 2 years. According to crime statistics, over 10,000 hate crimes were committed, including 12 murders of members of minority groups. The report of the Glass Ceiling Commission says that women occupy only 3 to 5 percent of senior executive positions, and in Federal procurement, where hundreds of billions of dollars are spent, minorities and women get only about 5 to 7 percent.

Clearly, the playing field is not level. That is why we need affirmative action; that is why it is worth it to address the problems of discrimination that exist today.

Before I conclude, let me say this. I am tired of the patronizing by these folks who come up and say that this will allow unqualified people to gain admission to higher education. The fact of the matter is, even with affirmative action, the criteria for graduation remains unchanged. So anyone that comes in under a program such as this would not be unqualified or would not be compromising the quality of their education.

I hope we address the reality of today's world, and that is that affirmative action is needed because discrimination continues to exist.

Mr. CLAY. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman.

I would like to just clarify that we are exempting Native American colleges out of a unanimous consent request to modify the amendment to also exempt historically black colleges and universities and Hispanic institutions. I ask unanimous consent to do so.

The CHAIRMAN. The Chair would entertain such requests only from the sponsor of the amendment.

Mr. ANDREWS. Mr. Chairman, I ask unanimous consent to ask the sponsor of the amendment to offer this modification.

The CHAIRMAN. Who yields time?

Mr. RIGGS. Mr. Chairman, I yield myself 40 seconds to respond to several of the previous speakers on the other side.

I just want to say again, from my heart, I believe affirmative action is outdated. Affirmative action, contrary to what several speakers have suggested, is no longer a black and white issue, certainly not in California, the largest, most diverse State in our Union. Because the cultural makeup of America is changing, the argument that affirmative action serves as some sort of reparation for past wrongs, as I think the gentleman from Maryland

(Mr. WYNN) and others have suggested tonight, no longer stands. Indeed, often, those most hurt by affirmative action are not white males, but rather Asian women.

Mr. WYNN. Mr. Chairman, will the gentleman yield?

The gentleman referred to me by name. Mr. Chairman. Will the gentleman yield?

Mr. RIGGS. I do not yield, Mr. Chairman, and I ask for regular order so that I might complete my comments.

I was about to say, those most hurt by affirmative action, as has been the case in California, are not white males, but rather Asian women. Again, I hear the comment made aloud over there, but I do not believe that is justice, and I do not believe that is the kind of society we want in this country.

Mr. Chairman, I yield 6½ minutes to the gentleman from California (Mr. COX), my friend and colleague.

Mr. COX of California. Mr. Chairman, I would like to focus us, if I might, on the text of what is before us because, frankly, I find it difficult to disagree with much of what has been said on the Democratic side. I, too, like my colleagues on the Democratic side, support affirmative action. I certainly want to lead the fight, as we always have here in the Congress, against discrimination.

A higher percentage of Republicans, in fact, than Democrats voted for the historic 1964 Civil Rights Act, and for every landmark civil rights act this Congress has passed. This is a bipartisan effort, and it always has been in our Congress.

Let us take a look at the language that is before us. Section A is titled Prohibition. What is prohibited? ''No public institution of higher education shall, in connection with admission to such institution, discriminate against or grant preferential treatment to, any person or group, based in whole or in part, on the race, sex, color, ethnicity or national origin of such person or group.''

It also says this: ''Affirmative action encouraged,'' not abolished, not done away with, encouraged. ''It is the policy of the United States,'' reading from the language of the amendment, ''1, to expand the applicant pool for college admissions; 2, to encourage college applications by women and minority students; 3, to recruit qualified women and minorities into the applicant pool for college admissions.''

If we can focus ourselves on what the amendment actually says and does, I think we can quickly see that this vindicates the very purpose of the Civil Rights Act of 1964, which its chief Democratic sponsors were careful to point out, never, ever, ever was meant to require quotas.

The Democratic floor manager of the Civil Rights Act of 1964 was the Senator from Minnesota, Hubert Humphrey. He told a critic of the legislation, which as I said was supported by more Republicans than Democrats, ''If you can find anything in this legislation that would require people to hire on the basis of percentages or quotas, I will start eating the pages of the bill, one after another.'' Quotas, preferences, set-asides, are the antithesis of what the 1964 Civil Rights Act is all about and what affirmative action is all about.

The use of racial preferences, moreover, is today in America, and has been for years, unconstitutional. The Supreme Court and the Federal courts of appeal have struck them down in virtually every contest, in contracting, in voting rights, and most certainly in education.

Recently three Federal courts of appeal have struck down racial preferences in education, including the 5th Circuit in Hopwood v. Texas, the 4th Circuit in Podberesky v. Kirwan, and the 3d Circuit in Taxman v. Piscataway. In fact, the Taxman case was appealed to the Supreme Court, which was so clearly prepared to strike down these preferences nationwide that supporters of the preferences and set-asides and quotas settled the case rather than risk certain defeat.

All of these decisions had one thing in common: They all followed from the argument that Thurgood Marshall made to the Supreme Court when he argued Brown v. The Board of Education for the NAACP in 1955. He said that ''Distinctions by race are so evil,'' evil, ''so arbitrary and so invidious, that a State bound to defend the equal protection of the laws must not invoke them in any public sphere.''

Now, many of my colleagues, many people of goodwill, are troubled by racial preferences, set-asides, and gender preferences and set-asides. But they want to know, nonetheless, what would be the practical effects of returning to a policy of affirmative action, the most aggressive possible outreach and recruitment combined with merit-based admissions decisions. Fortunately, we now have some answers to that question.

This amendment is very closely modeled on the California Civil Rights Act, the California Civil Rights Initiative which, in 1996 was passed by a significant majority of voters in the most populous State in our country; and CCRI, the California Civil Rights Initiative, is helping to make admissions at the University of California, which we have discussed here on the floor, color blind.

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We have had some discussion and debate on the floor about what has happened in the UC system in the wake of the passage of CCRI. The number of African-American admissions after the passage of CCRI increased 34 percent at the University of California Riverside. The number of Asian-American admissions increased at four University of California campuses. The number of American Indian admissions increased at two University of California campuses. The number of Filipino admissions increased at three University of California campuses. The number of Hispanic admissions increased at two University of California campuses.

This shift of students among the campuses of the University of California is good news because graduation rates are expected to increase significantly. When colleges accept students who are best prepared for the level of academic intensity required at the institution, the probability that the students will graduate increases exponentially. In the University of California system, graduation rates are expected to increase by almost 20 percent for blacks and Hispanics. UCLA Chancellor Albert Carnesale stated in the Orange County Register that UCLA has admitted the academically strongest class in its history. Students in the UC system are now being judged by their qualifications, by their own merits as individuals, not as members of a class.

Mr. Chairman, that is the purpose of this amendment. Let us return to the purpose of affirmative action. Let us redouble our efforts against discrimination and let us vote indeed for this amendment.

Mr. CLAY. Mr. Chairman, I yield 2¼ minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I had a chance like my colleagues to read the amendment and I thank the gentleman from Missouri (Mr. CLAY), my colleague on the Committee on Economic and Educational Opportunities, for yielding me this time.

Mr. Chairman, I find it amazing that in the amendment that takes away the ability to have fairness, we have on page 2 that the gentleman from California quoted that it is the policy of the United States to do these things, but without any teeth in the amendment we might as well just throw it all away, and that is what should be done with this amendment.

Mr. Chairman, as a Member of Congress, I believe it is my duty to make sure that all Americans are served, and I believe that education for everyone is a key to our Nation's continuing success. That is why I rise in strong opposition to the amendment offered by the gentleman from California (Mr. RIGGS).

This amendment is an attack on the efforts to educate everyone in our Nation. In my home State of Texas we have a very diverse population, a population that is becoming more diverse with each generation. We cannot afford to implement a law that makes educating this diverse population more difficult.

I heard tonight the quote from our Attorney General, who is not running for reelection in our State of Texas, saying that should not be done. We are not talking about reparations; we are talking about fairness. We are talking about making sure that the America of the future will have that opportunity for education no matter what color of the skin.

In Texas, we have witnessed a dramatic decline in the number of Hispanic and black admissions to Texas higher education institutions after the Federal court ruling against affirmative action in the Hopwood case. We do not need to see a bleaching of America's higher education institutions. I do not need our college graduates to look like me. I want them to look like America. I do not want them to all be white Anglo-Saxon protestants. I want them to look like Americans.

We must advance educational opportunity, not limit it. If the Riggs amendment only had the second part, then maybe all of us could vote for it because that is the policy of the United States: To educate everyone, no matter where they come from or what their ethnicity.

The Riggs amendment would roll back the progress we are making. Affirmative action needs to be amended but not ended. I remember hearing Dr. King in 1963 say he had a dream. That dream has not come true. That is why this amendment needs to be defeated.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Guam (Mr. UNDERWOOD).

Mr. UNDERWOOD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong opposition to the amendment proposed by the gentleman from California (Mr. RIGGS) to ban the use of affirmative action in colleges and universities. The purpose of affirmative action is to remedy past discrimination endured by many sectors of our society. Gender, racial, and ethnic discrimination in education is outlawed under the 1964 Civil Rights Act and the 1974 Education Amendments.

Affirmative action is necessary to enforce these laws and to level the playing field for minorities. As an academic administrator and former professor, I know that colleges and universities are in the business of education and consequently in the business of creating opportunities for our young adults.

Institutions of higher education diversify their student populations through affirmative action programs and, in fact, practice affirmative action for a number of purposes, including geographical balance and promoting international scholarship. Affirmative action gives students the opportunity to join their peers in intellectual discussions, in informed and broad debate, and these are the necessary ingredients for institutions of higher education to be fountains of knowledge.

Higher education professionals understand this and use affirmative action to not only extend opportunities but to advance the institutions themselves.

The Riggs amendment would effectively stifle university actions to create campus diversity. Passing the Riggs amendment means that college admissions would be based almost entirely on statistically insignificant differences in test scores, grades, and possibly connections.

As an educator, I believe this proposal is preposterous with the experience our Nation has had, with the marginalization of certain sectors of our society. It is important to distinguish between affirmative action and past discrimination, a distinction which supporters of this amendment blur and avoid. Past discrimination made it impossible for otherwise qualified students to go to universities. Affirmative action gives qualified students a chance to go to a university. One says they could not go, no matter what their abilities were. Affirmative action says if they are qualified, we will give them a chance. It is as simple as that.

Mr. RIGGS. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN. The gentleman from California (Mr. RIGGS) has 24¼ minutes remaining, and the gentleman from Missouri (Mr. CLAY) has 30¾ minutes remaining.

Mr. RIGGS. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GOODLING).

LIMITING DEBATE ON AMENDMENT NO. 79, AND ALL AMENDMENTS THERETO

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that all debate on Amendment No. 79, if offered and all amendments thereto, be limited to 30 minutes, equally divided and controlled by myself, or my designee, and the gentleman from Missouri (Mr. CLAY) or his designee.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Mrs. MEEK).

(Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for allowing me to speak on this subject. I did not come prepared to speak on this subject, but my life is preparation for this subject.

Mr. Chairman, I decided I would speak out in strong opposition to the Riggs amendment, which is another verification of a dying system. The system is in its death throes. I thought that once it was lethally killed, but now I see that there are many who believe that by turning the clock back, that they may bring a change in America which they were unable to bring before.

Mr. Chairman, I want to share something. My colleagues will not be able to bring that change. They will not be able to bring it by glibly reciting laws one by one. Many have quoted case law, Martin Luther King, Thurgood Marshall, and any number of people and incidents have been quoted.

But, Mr. Chairman, my colleagues will be unable to turn this America back. This America is not the America that they knew or their forefathers knew. This is a different America. This is the America that is proud to have all races, ethnicities and creeds and sexes and everyone participate in this great manner which we have here in this country.

So I want my colleagues to talk as much as they want to talk, speak in rhetorical terms as much as they want to speak, because it does them good. But I want to give my colleagues some reality, some reality therapy. And I will go back to the time when I was a very, very young girl and I want my colleagues to put themselves in my place. Then they will see why I know America will not be that America again.

Mr. Chairman, I wanted to go to college. I could not go to the college of my hometown because I was black. I could not go to high school because I was black. I could not live where I wanted to live because I was black. I could not go to any State university. By the statutes of the State of Florida, I was eliminated from higher education.

But guess what? It did not stop me and it is not going to stop any black person. It is not going to stop any Hispanic person. What my colleagues are saying now, I would say what they are doing is bringing up the insides of the hatreds which their forefathers set there. But it is not going any place. There is no one in this House that is going to allow this to happen, so they may as well fold up their papers, fold their little tents and go home because this is not going to pass.

Mr. RIGGS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the first thing I want to say is my daughter attends a public elementary school in Northern Virginia where she is a minority. She is a minority as an Anglo at that particular school.

Secondly, I want to say, as I tried to stress earlier, that Anglos, Caucasian Americans are in the minority at the University of California. Two out of five students in the University of California system are white. That makes them minorities. At the University of Berkeley the figure is one in three.

Mr. Chairman, I can honestly say to my colleagues on the other side of the aisle, particularly the gentlewoman from Florida who just spoke, I really do not believe I have a racist bone in my body. And when I hear people talk about turning the clock back, I wonder if those who support race-based college admissions or racial preferences in college admissions, or really believe that that should be the primary if not sole factor considered in admissions, if they realized that they are talking about turning the clock back to before 1954 and the Brown v. Board of Education case, because that is exactly what they are advocating.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I do not think there will be peace in the Middle East or Ireland or in Bosnia in my lifetime, and I do not believe that racism will be dead in the United States of America in my lifetime. I truly believe that.

But I also believe that affirmative action creates a lot of negatives and that it is detrimental just like I think bilingual education is detrimental. And I agree with the gentleman from California (Mr. RIGGS) that the best thing we can offer to all children and to all Americans is an equal opportunity, especially by focusing on kindergarten through 12th grade.

A large portion of our Hispanic population drops out of school. That is wrong. And what chance do they have at the American dream? A large portion of the African-Americans that attend college are in remedial education, so in both groups the best thing we can do is offer all children the best we can in K through 12. But yet in this country we do not do that good a job, even though we have good teachers and good schools. My wife is one of those. I was one of those.

My dad, who died three years ago, he was a Democrat, and he said:

> Son, my ideal of the American dream is getting a good education and working hard. And if you have those tools, you can pursue happiness. It is not guaranteed. But if you pursue happiness and you have those tools, not every day but most days you can make tomorrow better than it is today.

And I truly believe that.

But I think turning the clock backwards, which many of my colleagues are trying to do, is wrong also. No, we are not to where we want to be, but I think the focus is on equality. Look at our colleges. Most of them are thick and strongly populated by the Asian community because they focus on education at a very young age. I have a large Asian population in my district and they focus on the family. They focus on education from the day that they are in kindergarten and those kids volunteer for every single event that will foster them an opportunity to go to school.

And as I look at our inner cities, what chance do they have at the American dream, Mr. Chairman? Almost none, because of the welfare system that was set up, because of the problems that they had, and the lack of values, and the crime and the drugs, and on and on and on.

So if we really want to help all children, let us do away with affirmative action and I truly believe that. The gentleman knows I worked with him on the committee. And I believe that if we do that, that then we are going to help this country, not hurt it. Is it a perfect country? Absolutely not.

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But most of us, believe it or not, will work with you in that direction.

Mr. CLAY of Missouri. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, affirmative action is not a perfect policy. In an ideal world, we would not need affirmative action; we would not even want it. We would admit everyone, regardless of past practices of discrimination, regardless of the need to promote diversity in higher education, regardless of anything but merit.

We do not live in a perfect world. We live in a society and in an economy that has been shaped by our history. That history includes an economy that was based upon slavery. It includes, at one time, a definition of African Americans as being worth only a fraction of the value of white Americans. It is a history that includes an official policy of school segregation. It includes a denial of voting rights, of Jim Crow laws.

In my own State of Virginia, it is a history that includes, in our own time, in our lifetimes, an official policy of massive resistance to integrated classrooms.

The closest correlation with academic success of any student is the educational experience of their parents. But what if parents and grandparents and great grandparents were denied access to a decent education as the official policy of the government? Our government denied African American children access to a decent education. We cannot pretend that did not happen.

While it may not be the fairest way, affirmative action is still probably the most effective way to overcome these official policies of denial of access. Even with the help of affirmative action policies, twice as high a percentage of whites have college degrees as African Americans, and only 9 percent of Hispanics have college degrees. Prohibiting affirmative action policies, as the Riggs amendment would, only worsens this disparity.

The reverse of affirmative action policies in California and Texas public universities led to a dramatic decrease in the enrollment of African American students. All of those students that would have been admitted had high grades and were all fully qualified for admittance.

Someday, we will not need affirmative action, but that is not this day. I urge that we oppose this amendment.

Mr. CLAY of Missouri. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

(Ms. WATERS asked and was given permission to revise and extend her remarks.)

Ms. WATERS. Mr. Chairman, here we go again. The gentleman from California (Mr. RIGGS) and his extreme right-wing friends are attempting to polarize and divide this Nation by pitting citizens of this country one against another.

The gentleman from California would have Members believe that somehow whites are being disadvantaged by affirmative action and African Americans and Latinos and others are at a great advantage, and they are getting all of the slots in these schools.

Let me give the actual numbers that we have not heard for the University of California. In 1997, out of 44,393 students on nine campuses, guess how many were African Americans? 1,509. There were 5,685 Latino students out of these 44,393. In 1988, 1,243 are African-American, and 5,294 are Latino students. This is with affirmative action, nine campuses.

He gave some figures, and he told us about UC Riverside, but what he did not tell us was this: that black undergraduate admissions dropped 66 percent in UC Berkeley, 43 percent at UCLA, 46 percent at UC San Diego, and 36 percent at UC Davis. These are the prestigious campuses. Latino undergraduate admissions dropped by 40 percent at UC Berkeley, 33 percent at UCLA, 20 percent at UC San Diego, and 31 percent at UC Davis.

The gentleman from California (Mr. RIGGS) and his supporters mischaracterized the admissions process and its reliance on race. Colleges and universities have always looked at a variety of factors, test scores, race, out-of-classroom experience, percentage achievement, and life challenges to determine who to admit to their institutions.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise today in opposition to this amendment. As a graduate of the University of California at Berkeley, as a woman who never would have had access to a higher education in California's public universities had it not been for affirmative action policies and programs, and who, as a child, upon entering school, was not allowed to attend public schools or public facilities due to segregation, I urge Members to vote no on this amendment. Eliminating affirmative action denies equal opportunities to many of our qualified young people who deserve to have equal access to a college education.

When the University of California Board of Regents considered ending the affirmative action program several years ago, as a member of the legislature, I pleaded with them not to take such a drastic action because of the fact that affirmative action, not quotas, which have been illegal since the Bakke decision, but actually affirmative action was the primary mechanism in place to assure that qualified students of color and women were afforded a public university education.

Many of us, myself included, predicted that minority admissions, which what we have heard today in terms of the decline of the minority admissions, would be very stark, and it is more stark than what we had imagined.

For example, this decline overall of 61 percent, that is outrageous. Only 191 black students were admitted out of a total of 8,034 into the University of California at Berkeley. Medical school admissions are equally alarming. There

are no African-American students and very few Latinos entering medical schools at several of our campuses.

It has been shown, time and time again, that a large percentage of persons of color will return to provide medical services for underserved communities. We condemn these underserved communities to remain underserved when we do not provide admission to qualified applicants who have as their goal to provide health care services to these communities.

In 2 years of the Regents' policy, we have begun to see the unraveling of 30 years of progress. Why would we want to subject the rest of the country to this ill-conceived experiment? Conventional wisdom says that as California goes, so goes the rest of the country. I ardently advise my colleagues to learn from the mistakes of my home State and vote no on this amendment.

Mr. Chairman, I rise today in opposition to the Riggs amendment. This amendment will prohibit any institution of higher education that participates in any Higher Education Act program from using race, gender, ethnicity or national origin in its admissions process. Namely, the Riggs amendment seeks to eliminate affirmative action policies throughout the higher education system of this country.

As a graduate of the University of California at Berkeley, as a woman who never would have had access to a higher education at California's public universities had it not been for affirmative action policies and programs, who as a child, upon entering school, was not allowed to attend public schools and public facilities due to segregation, I urge you to vote no on this amendment.

America never has been nor is it a color blind society. Thirty years of affirmative action have helped change the landscape of our universities and colleges. However, it has not changed so much that we are in a position to abandon our efforts. While African Americans, Latinos, and Native Americans comprise 30% of the college-age population in the U.S., they only comprise 18% of college students. The percentage of women receiving doctorate degrees is 39%. However, in male-dominated fields like mathematics, engineering, and physical science, the percentage falls to 22%, 12% and 12% respectively. The percentages of African Americans receiving PhDs is 4%; Latinos and Asian Americans with PhDs are 2% and 6% respectively. These figures are dismal and while some progress has been made, now is not the time to impede this progress. It is inconceivable to me that individuals are arguing that we no longer need affirmative action programs. Eliminating affirmative action denies equal opportunities to many of our qualified young people who deserve equal access to a college education.

When the University of California Board of Regents considered ending affirmative action programs several years ago, as a member of the California legislature, I pleaded with them not to take such a drastic action because affirmative action was the primary mechanism in place to insure that qualified students of color and women were afforded a public university education. Many of us, myself included, predicted that minority admissions and enrollment would decline precipitously. Results have been even more stark than we imagined. Let me tell you what has happened in California since the demise of affirmative action.

The Fall 1998 class on the University of California's undergraduate campuses will be the first to have been admitted based on the new Regent's policy. Only 652 out of 3675 African American, Latino and Native American applicants were offered enrollment for next year—a decline of 61% from last year. A 61% decline in one year. African American enrollment fell by 66% and Latino enrollment fell by 53%. At UCLA African American enrollment fell by 43%, while Latino enrollment fell by 33%. One of my constituents was recently included in an article in the San Francisco Chronicle about the effects of the new policy. Jamese LaGrone is a 17-year-old senior at Oakland's Holy Names High School. LaGrone was the junior class president, an athlete, worked on the yearbook and took a number of advanced placement courses. She has a 4.0 grade point average and scored 1390 on the SAT. Clearly, she is a well-rounded teenager who has worked in and out of the classroom to make the grade. I defy anyone to say that this student is not qualified to attend the University of California, Berkeley. Yet, she was rejected by the University of California, Berkeley. She is among 800 African American, Latino and Native American applicants with 4.0 averages and a median SAT score of 1170 rejected by the University of California, Berkeley.

Medical school admissions are equally alarming. Only 3 Chicanos are registered at the University of California at Davis, one at the University of California at Irvine, and two at the University of California at San Diego. These numbers are only slightly better at the University of California at Los Angeles and the University of California at San Francisco. There is only one Puerto Rican registered in the entire University of California system. There are no African Americans among the freshman classes of medical school at either the University of California at San Diego or the University of California at Irvine. These admission numbers have implications for the delivery of health care services to underserved communities. It has been shown time and time again, that it is primarily persons of color who will return to provide medical services for these communities. We condemn these underserved communities to remain underserved when we do not provide admission to potential, qualified applicants who have as their goal to provide health care services to these communities.

Only one year after the Regents decision to ban all affirmative action policies, the acceptance rate at Boalt Hall law school at Berkeley dropped 81%; at UCLA, the rate fell 80%. The message being sent to students of color is that they are not welcomed in the University of California system, so that even those few offered admission choose to go elsewhere. For example, no African American students who received admissions to Boalt Hall chose to attend; only 7 of the Latino students who received admission elected to attend; the two Native American students accepted also declined admission.

In two years of the Regent's policy, we have begun to see the unraveling of thirty years of progress. Why would we want to subject the rest of the country to this ill-conceived experiment?

I have heard my colleagues on so many occasions talk about how the Department of Education should have less influence on education policy. Yet, here we are on the verge of putting the Department of Education in the business of dictating admission policy for our higher education community. Sixty-two presidents of the country's most prestigious universities have come out in opposition to the elimination of affirmative action policies. These presidents have attested to the importance of diversity in fostering a rich educational environment and how affirmative action policies play a key role in achieving this diversity. This amendment directly contradicts what the majority of educators throughout the country have said that they need. We cannot tie their hands on how they can achieve their mission.

I cannot stress enough what a devastating effect and far reaching implications the Riggs amendment will have for the future of this country. It will only further widen the disparities in education and income between men and women, and whites and people of color.

I cannot believe that Members of this House want to see the resegregation of America's colleges and universities. I urge a no vote on this measure to ensure that those qualified students, regardless of their race or gender, have an equal opportunity to pursue their dreams.

Conventional wisdom says that as California goes, so goes the rest of the country. I ardently advise my colleagues to learn from the mistakes of my home state. I hope that in this case, that conventional wisdom is wrong. I yield back the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the Riggs amendment, and I do so after numerous conversations with institutions of higher learning in my district.

There are a lot of folks around that complain regularly that the Federal Government, specifically the Department of Education, exercises too much control over the education of our children. They claim that they are for local control in autonomy and education.

My friends, this amendment promotes expanded authority for the Federal Government and takes away decision-making power from States and localities, as read by those who are responsible for education in my district.

My office has been in discussion with university presidents from across my district. They represent a broad spectrum of schools, small, large, public, and private, those who are affected by this amendment, and those who are not immediately affected.

In spite of the differences in their schools, though, all of the university presidents in my district that we spoke with were unified in their opposition to this amendment. They are worried about this latest potential intrusion by the Federal Government in instructing schools on ways in which they must conduct their business. They foresee an impact far more draconian and extreme than Proposition 209 and the Hopwood decision.

The last thing that these folks and their universities that have done such a fine job educating young people of west Texas want is more intrusion and regulation from the Federal Government.

I urge my colleagues to listen to these voices, to vote no on the Riggs amendment, and help prevent a broad-based, far-reaching, intrusive Federal prohibition that universities do not support and students do not want.

Mr. RIGGS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I just again want to, for the benefit of all my colleagues, put matters in perspective in terms of what is taking place in the University of California system.

The latest systemwide data released by the University of California shows that this fall's freshman class will contain 675 fewer non-Asian minority students spread over the entire eight campuses. So the new freshman admissions are 15.4 percent non-Asian minority, interesting that they actually exclude Asians from the minority classification, compared with 17.6 percent for the 1997 freshman class. That is a decline of 2.2 percentage points.

The drop may be even smaller since the university does not know the ethnicity of the huge number of admitted students, 6,346, who declined to list their ethnicity on application forms this year.

So I want to suggest to my colleagues we have to treat these numbers that people are throwing around with a little bit of caution. The decline of black and Hispanic freshman enrollment in the 2 percent range is a lot smaller than many people predicted, a lot smaller, of course, than those who are quite up in arms, even hysterical over the passage and implementation of Proposition 209.

As I said earlier, what we have seen now is a spreading effect, more minority students at the other campuses in the University of California system, to the point where, as I quoted earlier, Judson King, the provost of the University of California, is acknowledging that we are actually achieving more diversity, better balance by the end of preferences in the University of California system.

Mr. Chairman, I yield 2½ minutes to the gentleman form California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I think that we are all talking about the fact that we want to address the fact that everyone who is disadvantaged should have access to their educational opportunities.

California is a very progressive State. We have been way ahead of the curve so many times in America that now people have just basically expected us to do this. I would ask that we talk about working together on this issue.

Californians have recognized that we are not talking about turning the clock back. We are talking about moving forward. The fact is, the days of trying to justify fighting prejudice by being prejudiced is a thing of the past. The assumption that there are only certain groups, by the color of their skin or their gender, who are disadvantaged when it comes to educational opportunities is an antiquated concept.

Mr. Chairman, if you walked in my neighborhood, a community in south San Diego, along the Mexican border called Imperial Beach, we could walk down, and I could show you where there was a Latino, an African American, a Pan Asian, an Anglo. You could not tell me that this person's children are advantaged, this person's children are disadvantaged.

The fact is that the great disadvantages in our society today follow more economic-social lines than any other single denomination; and that happens to have a large, large impact to those who are people of color. I agree with that. I think there are opportunities for us to have affirmative action.

In my county, we had affirmative action, and it was declared constitutional because we did not have quotas and set-asides. We did not judge men and women based on their gender or people based on the color of their skin, but we did address the issue.

There are a lot of people that are disadvantaged and need help. That does not necessarily always follow based on the color of someone's skin or somebody's gender.

Mr. Chairman, I think that we can work together on this, but we need to leave the old race-baiting approach and the gender baiting. We do not fight racism by being a racist. We are not going to end sexism by being sexist.

Mr. Chairman, as somebody who has worked on affirmative action for over 20 years, we can do better. We do not need to deny a Filipino girl in San Diego access to the UC system because there happen to be so many more Asian Americans who qualify.

I have three daughters and two sons who are alive. I hope to God that some day in the next century we can stand up and say that our daughters and our sons, no matter what their gender, no matter what their race, no matter their economic opportunities, will have equal rights under the Government of the United States.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

(Mrs. LOWEY asked and was given permission to revise and extend her remarks.)

Mrs. LOWEY. Mr. Chairman, I rise in strong opposition to the Riggs amendment. This amendment would forbid public colleges and universities from considering race, color, national origin, ethnicity, or gender at all in the admission of students.

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Now, I oppose quotas and reverse discrimination, but this amendment will not eliminate quotas or reverse discrimination because they are already illegal. And that is the point. This amendment would eliminate diversity in our Nation's public colleges and universities.

We have seen what happens when affirmative action in higher education is eliminated. Minority enrollment plummets, plain and simple. For example, since the Hopwood case and the passage of Proposition 209, the number of racial minorities admitted to public universities in Texas and California has decreased dramatically.

At the University of Texas Law School, admissions of Hispanic students is down 64 percent. Admission of African-American students is down 88 percent. And when minority admissions decrease so dramatically, there are so few minority students that those who are admitted do not choose to attend. At Boalt Law School last year, not one of the African Americans admitted elected to attend.

Even minority applications are plummeting. Last year minority applications at the University of California at San Francisco Medical School fell from 722 to 493. Berkeley Chancellor Robert Berdahl has said, ''We have got to take this seriously. Our future as a university and the future of the State of California is at stake.''

The Association of American Medical Colleges has said of this amendment: ''HMOs and other large health care organizations are calling for greater numbers of physicians who reflect the diversity of the patient populations they serve. Today, black, Hispanic, and Native American doctors are a crucial source of care for the Nation's burgeoning minority communities as well as its poor populations. Ultimately this legislation will undermine decades of progress our Nation has made in educating underrepresented minorities for all trades and professions.''

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR), the distinguished minority whip.

Mr. BONIOR. Mr. Chairman, America has always been about opportunity: the opportunity to work hard, the opportunity to get ahead, and the opportunity to achieve everything that our talent and our toil will allow. And in today's competitive economy, the key to that opportunity is a good education.

That is what we are talking about this evening, ensuring that all Americans have an opportunity for a good education, even those who have traditionally been denied access to our colleges and universities.

Most colleges and universities seek out students of various talents, perspectives, and backgrounds precisely because that diversity makes them stronger. They admit students on the basis of many subjective criteria. Some students are admitted because they are top scholars, some because they are good athletes, some because they are children of wealthy alumni, some because they are in-State students, some

because they help create geographic diversity.

Factoring in an applicant's race and gender in the admissions process is no different except its purpose, ensuring equal opportunity for all Americans, is a whole lot more important than recruiting a winning football team or boosting donations of alumni. Student bodies that include men and women of all backgrounds help produce the diversity that we need in America.

Now, there are those who argue that affirmative action is no longer necessary. And to them I say, let us look again, once again this evening, at the evidence.

One year after the University of California prohibited all affirmative action programs, enrollment for African Americans dropped 66 percent, Hispanic enrollment dropped 53 percent. The end of affirmative action at the University of Texas Law School caused Hispanic admissions to drop 64 percent and African-American admissions to drop and to fall by 88 percent.

So what do these statistics tell us? That not all Americans are getting equal access to educational opportunities.

Affirmative action is an effective tool to remedy this. The Riggs amendment would take this tool away from us. It would undermine opportunity. I strongly urge, Mr. Chairman, I strongly urge my colleagues to oppose it.

Mr. RIGGS. Mr. Chairman, one more inquiry as to how much time is remaining on both sides.

The CHAIRMAN. The gentleman from California (Mr. RIGGS) has 16¼ minutes; and the gentleman from Missouri (Mr. CLAY) has 16½ minutes remaining.

Mr. RIGGS. Mr. Chairman, I yield myself such time as I may consume.

I want to say to my colleagues that we have to look at the results of affirmative action as has been practiced by many institutions of higher learning around the country. That is why we have gotten the court ruling in the Hopwood case; that is why the courts upheld the legality and constitutionality of the California civil rights initiative.

In fact, the Ninth Circuit Federal Court of Appeals said in upholding Prop. 29 in California, and I quote, ''Where a State denies someone a job, an education, or a seat on the bus because of her race or gender, the injury to that individual is clear. The person who wants to work, study, or ride but cannot because she is black or a woman is denied equal protection'' under the law. ''Where, as here,'' and referring to the case of Proposition 209 in California, ''a State prohibits race or gender preferences at any level of government, the injury to any specific individual is utterly inscrutable.''

Inscrutable. That is the word of the appellate court.

No one contends individuals have a constitutional right to preferential treatment solely on the basis of their race or gender. I will turn the earlier argument of the gentleman from Texas (Mr. EDWARDS) on its ear. Is there anyone on the other side of the aisle who is willing to stand up tonight, in fact, I think this is the argument the gentleman from California (Mr. COX) made as well, and contend that any individual American citizen has a constitutional right to preferential treatment solely on the basis of their race or gender? If so, I will hear from them now. I will yield to them.

The court is clear. What has evolved is an unfair system.

The court goes on to say quite the contrary. ''No individual citizen has that constitutional right to preferential treatment.'' And they go on to conclude and say, ''What then is the personal injury that members of a group suffer when they cannot seek preferential treatment on the basis of their race or gender?''

So that, I think, is the crux of the legal argument. And I guess that is as good a segue as any, Mr. Chairman, to introducing my good friend and fellow Californian.

Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, what do we say, what do we say to the young Asian-American woman who received a letter in 1989 from the University of California Boalt Hall Law School. I saw the letter. It said that she was on the waiting list, and there was a blank, and the word ''Asian'' was written in; that she was on the lower third of the ''Asian'' waiting list. What do we say to an individual who is told that her race is going to determine whether she has a good, better, or worse chance of getting into the law school of her State, the University of California? (The University agreed to stop this practice.)

People of good will are on both sides of this issue tonight, Mr. Chairman. I recognize that. Every intelligent person does. And I cannot dispute that affirmative action, as practiced in this country, has done good for many people. I just cannot accept the price of the harm it does to those who are kept out. And that is what happens. We cannot logically include somebody, giving preference on the basis of their race, without saying that somebody else is excluded because they were not of that race.

The University of California has been the subject of a lot of the debate tonight. Statistics about the test scores there were reported in the Wall Street Journal in April of this year. They say that the SAT for math was 750 for Asian students; for white students, 690; for Hispanic, 560; and for black, 510. What do we say to an Asian American who scores 740 on the SAT math and is told she cannot get into Berkeley, but that if her race were white, she could?

The danger is, once the State begins to use race, it is very, very hard to do it right, to do it in a fair way, to do it in a constitutional way.

I want to tell my colleagues something that happened to me personally. First of all, some background: Asians now are about 38 percent of those admitted to Berkeley, 41 percent of those admitted to UCLA. They are the largest ethnic group at those two campuses. And if we look at people as members of groups, we could say, well, that is high enough. That group's percentage is high enough. But that is just not fair to the individual who is told that we have reached the limit of ''your type.''

I had this personal experience, Mr. Chairman. When I was a member of the California State Senate, a high administration official of the University of California came to see me in my office. And he said, we need affirmative action at Berkeley because, otherwise, ''there would be nothing but Asians there.'' He said that to me, in my office. I said to him, what is wrong with that? They would be Americans. Not Asian Americans, not Caucasian Americans, not African Americans. Americans. But this university official was concerned that there would be too many of one particular race at the University of California.

When California abolished the use of race in the admissions policy at the University of California, the group that increased in admissions was Asian. At the law school at UCLA, the numbers of Asians admitted grew 81 percent.

During the time when affirmative action was practiced (and I know this because I interrogated the administration officials at the University of California) people of higher income were admitted over Asian-Americans of lower income. There was no affirmative action for Vietnamese, though they came to this country with nothing. No affirmative action for them.

And the university actually argued that because they would admit students of lower income if they abolished affirmative action, they would have lower academic performance, because academic performance was correlated with income. That, to me, is so wrong, to say to somebody whose income is lower, that nevertheless they are just the wrong race, so they cannot come in.

Mr. Chairman, I had a distinct honor to be law clerk to Justice White in 1978, when *Bakke* was decided. And I read every word of the civil rights history of the 1964 Act, and I read the briefs in the case. And I will never forget that the Sons of Italy and B'nai Brith submitted briefs in that case saying it is not just a generic Caucasian that we would be taking places from, it is us; in the two instances I gave, persons whose interests were represented by B'nai Brith and the Sons of Italy would be losing places in the class admitted to medical school.

Four justices in that case ruled that there was no difference to the individual whether they are told they cannot get in because there is an absolute quota, or they cannot get in because

they do not have the racial plus factor of those who were admitted. Two of those four were Justice Stevens and Justice Stewart, nobody's far right wing members of the Supreme Court.

The numbers at the University of California are not as good as we would all like. I admit that. But the University of California has not tried the alternative. What they should have done, from the start, is consider people who are willing to work in low-income neighborhoods upon graduation. Let us admit people to medical school who are willing to go into the neighborhoods that need them. Let us admit students taking into account a promise to do that; not on the basis of their race.

We should consider income. We should consider whether your parents graduated from college. We should consider how many from your high school went on to college. The University of California never tried those factors. They used race because it was the most convenient; and, hence, the numbers now are as bad as they are. I suggest that it is time to try the alternatives, because using race has led to unfairness to people in my State.

□ 2100

I conclude with this. This is a matter of shame to me that my State kept Chinese from owning property at the beginning of this century; told Chinese they could not even litigate in civil courts up until the Second World War. They took Japanese Americans and said, ''Because you are Japanese, you will be deported from the State of California; your property and business will be seized.'' It is just not right for my State to tell them now, ''You are on the Asian waiting list.''

Mr. Chairman, we cannot do good by doing bad. Let us do good and consider people as individuals, not as members of a class.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

(Mr. OWENS asked and was given permission to revise and extend his remarks.)

Mr. OWENS. Mr. Chairman, I mourn for the Chinese who were denied the right to own property. I mourn for the Japanese who were put in concentration camps. But I also mourn much more for those descendants of African slaves who were descendants of people who were not allowed to own property for 232 years. They were not even recognized in marriage. They could not get married. Laws were made to prohibit the teaching of reading to African Americans.

All those injustices do not matter, I suppose. If we start with a set of wrong assumptions, we can make a profound argument about simple-minded matters. But let us lay this aside for a moment and not discuss the need for affirmative action as a matter of justice that is long overdue. Let us just talk about how do we deal with the present situation and some of the things the previous speaker said.

Why do we not let all high school graduates who qualify to go to college go to college? Why do we not open up the slots. Why do we not have open admission and have the Federal Government have a program where we expand the Pell grants and we expand all the Federal aid to the point where open admission would mean that every student graduating from high school who can reach a threshold can go on to college.

Because the facts are that those students who have the lower SAT scores in the minority community, once they go to college, the results, the studies that are done about results in the medical schools and results in the law schools, they get the same results. They come out at the same level as everybody else.

If we want an America which is meeting its needs for a large number of educated professional people, and we are missing the boat here, we have no vision as to what is coming. We have a great shortage of teachers right now. We do not seem to recognize what that means. We have a great shortage of information technology workers.

Practically every profession is facing the shortage just to meet our domestic needs. Yet we are the indispensable nation that offers all kinds of assistance to the rest of the world, and our leadership in the world will have a lot to do with our prosperity; and we do not have the educated people in the hopper, in the pipeline, to do that.

This amendment is going backwards. It is all wrong.

The CHAIRMAN. The Chair would advise, the gentleman from Missouri (Mr. CLAY) has 14½ minutes remaining, and the gentleman from California (Mr. RIGGS) has 7¼ minutes remaining.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland (Mrs. MORELLA).

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding the time.

I rise in opposition to the Riggs amendment. The amendment, although it has been altered, is still extreme. It is going to create a two-tiered system at our Nation's institutions of higher education. Our private colleges and universities can continue their affirmative action programs, creating diverse and inclusive environments on their campuses nationwide. But students in public colleges and universities will be deprived of all of those benefits and enrichment that diversity brings to the educational experience.

While the Riggs amendment would encourage the recruitment of women and minority students, there is little indication that this language would be implemented. Women and minorities have been historically underrepresented in many critical fields: science, engineering, technology. I could cite the statistics to indicate that among technology jobs computer programming attracts the most women, and that is 29 percent of female. Only 12 percent of physics doctorates and 22 percent of mathematics doctorates are awarded to women. For minorities, its an even more bleak picture.

Two-thirds of the new entrants into the workforce in the year 2000 are going to be women and minorities. Let us train them. Let us give them the opportunity. Let us embellish affirmative action in terms of what our Nation stands for. The battle for equal rights is not yet won. I urge a ''no'' on the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Chairman, let me thank the gentleman for yielding. And let me also concur that there are, I am sure, well-meaning people on both sides of this debate. But I think that this amendment would move this country in the wrong direction.

Harvard University was founded for the sons of landowners, white male landowners, and sons of the clergy. And when we look at the circumstances of higher education in this country and we know that the greatest predictor whether a kid would go to college is the education of one's parents, and then we already have heard the history of how certain groups have been excluded, then we know by mere fact that therefore others would be in a deficit position in order to go forward and matriculate at a higher education institution.

We know that income is a secondary factor, and we know where minority groups fall in the income distribution scale in this country. We also know that the third factor is the K-to-12 education. And everywhere we look in this country, we will see that minority students are in underfunded public education systems that disproportionately put them in a situation where they cannot compete adequately in some of these standardized tests.

So if we look at those three factors that on their face are nonracial in their characteristics, they have in fact an impact. The other thing that is important is that the Riggs amendment, my colleague from the Committee on Education and the Workforce, his amendment would allow a university like Penn State, where I served on the board of trustees, or Temple University, to admit, as many do now, foreign students based on preferences and all kinds of other considerations, giving them points in the admissions process, giving them headway over and above native-born American students who come from groups of Americans who have been left out of the picture.

Now, here in this Capitol, we have some 300 pictures, artistic pieces, renderings about our history. Not one picture is of an African American or a Hispanic American, a Latino. Is the kind of America we want to paint where we lock other people out? Do we

want to return to the day when in law school and medical school it is all males and no females?

What does that suggest for this country as we would go forward into the 21st century?

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Attack. Attack. Attack. Mr. Chairman, I rise before my colleagues today to express my opposition to this amendment.

In fact, I am sick and tired of being sick and tired. Why is it that minorities in this country are constantly on attack? One year after the passage of Proposition 209, California's most select universities admit 50 percent fewer African Americans and Latin American applicants? Why is it that every time we talk about affirmative action in education we are talking about race?

What about the football player who gets affirmative action or the alumnus because of the family's connection? How about the banker who has influence with the admissions board? This amendment is a blatant attempt to keep minorities out of our colleges and universities so that they will never have the opportunity to be successful.

Affirmative action has never been about favoritism. It is merely one tool to make sure that everybody in this country has an opportunity for education.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I thank the gentleman for yielding me the time.

I rise in strong opposition to this amendment. I am very sorry that this amendment is before us today. It is really very divisive. It moves the country in the wrong direction. I do not think we want to go back to the good old days, which were not so good to begin with.

I am really amazed because our Republican colleagues have traditionally said that the Federal Government ought not to intrude in the matter of education as far as the States go, and here we are mandating, intruding, and saying that the States cannot even have the ability to decide for themselves what is best for their universities. It makes no sense to me.

If we do not believe that the Federal Government should come in with a sledgehammer, then why are we mandating this on States? The States are intelligent enough. They know what kind of programs they want and what kind of programs are best for their States. We ought to leave it alone.

I was educated at public universities in my State. I think we do very, very well. I am not interested in theories. In the real world, this country moves forward when people of goodwill work together. We need to stop dividing people. We need to bring people together. People are benefited when they go to school with other types of people. That is best for the society as a whole.

It is good for children to get to know other children, not only children of the same background, but children of different backgrounds. And what the Riggs amendment would do is it would resegregate public universities in this country. I do not see how that is good for America.

I think it is good that we have all types of people getting to know each other so we can have a brighter future. It does not make sense. Private colleges, as many of our colleagues have stated, could continue to be diversified, whereas public universities would have a stranglehold.

Let us not dictate to the States and tell them what they ought to do or what is best for them. We do not need Big Brother. The States know what is best for themselves. This amendment has constantly been worked and reworked and reworked and reworked, which means there has been a terrible problem with it.

I wish it would be withdrawn. We have seen what happened in California and in Texas with Proposition 209. This slides the country backwards. Let us move forward and reject the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the distinguished minority leader, the gentleman from Missouri (Mr. GEPHARDT).

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Chairman, I rise in opposition to this amendment, and I hope that it will be defeated.

This amendment would travel us down the retrograde road of racial divisiveness by offering legislation that would deny educational opportunity to minorities and women. The Members who support this amendment wanted America to end the era of diversity and integration in our public institutions of higher learning.

The Riggs amendment would destroy the years of effort and commitment that this country has made to expand educational opportunity. All the progress that we have made, and it is considerable, could be lost and reversed with this one vote.

The Riggs amendment is described by its proponents as an effort to eliminate preferential treatment and discrimination in admissions in public institutions that receive funding under the Higher Education Act. But make no mistake, the Riggs amendment is not about eliminating preferences and not about eliminating discrimination. It is about limiting the ability of public institutions to make their own choices about how to reach out to qualified students in their application process.

Like its model, California's Proposition 209, supporters of this amendment know that the majority of American people support affirmative action remedies that seek to be inclusive and remedy past discrimination, that aim to increase the attendance of minorities and women at our universities and colleges. They use terms such as ''preferential treatment'' and ''reverse discrimination'' in order to obscure what is really at stake here.

I know that the American people support affirmative action. I have heard stories of countless individuals who have been benefited, who have been helped, who have been given an opportunity that they would not have had but for these programs. These are the success stories of affirmative action which we have not talked enough about.

These people who had this chance overcame odds, surmounted the obstacles of discrimination, and they were allowed to fulfill their hopes and realize their potential, which they would not have been able to do without this help.

The Riggs amendment will create a crisis, educational inequality on a scale which we thought we had left behind us when we passed the civil rights laws in this country. We need only to look at California's experience to know what happened when this new policy came into being.

Under Proposition 209, the California State system has experienced the most significant drop in minority enrollment in its freshman classes in the past 2 decades. Proposition 209 has had such a devastating impact on educational opportunity for minorities in California, it has caused even longtime opponents of affirmative action to rethink their position.

I remember what it was like in America before we had this kind of affirmative action that really brought people into opportunity. I graduated from the University of Michigan Law School in 1965. And in my class, there was one, one, African-American student. In fact, he was the only African American in the entire law school when I attended law school at the University of Michigan.

That classmate was Harry Edwards, who is now Chief Judge Edwards of the U.S. Circuit Court of Appeals for the District of Columbia.

□ 2115

Last year in the entering class of the University of Michigan Law School, there were 25 African-Americans, and 22 percent of the entering class was comprised of students of color. Look how far we have come. Do we want to go back to 1965 when there was one African-American student in the entire law school at the University of Michigan Law School? Or do we want to continue what has been happening today because of affirmative action?

I think I know the answer. I think I know the best answer for America and for our people. Let us not go back into the past, which was not successful. Let us stay with the present. Let us keep affirmative action. Let us keep America the land of opportunity. Vote against the Riggs amendment.

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RIGGS. Mr. Chairman, just confirming that the gentleman from Missouri (Mr. CLAY) has the right to close debate.

The CHAIRMAN. As a member of the reporting committee opposing change in the committee position, the gentleman from Missouri (Mr. CLAY) will have the right to close.

Mr. RIGGS. I would also like to confirm how much time is remaining on both sides.

The CHAIRMAN. The gentleman from California (Mr. RIGGS) has 7¼ minutes remaining and the gentleman from Missouri (Mr. CLAY) has 5½ minutes remaining.

Mr. RIGGS. Mr. Chairman, I yield myself 3 minutes. I just want to say, let us not get too hysterical about this debate. I go back for the third time in the course now of about 2 hours, I want to quote Judson King, provost of the University of California, who acknowledged that the passage and the implementation of Proposition 209 has evened out diversity across the University of California system, all eight campuses, or nine if we include the University of California at San Francisco Medical School. John Leo, who quoted Mr. King, goes on to say in this commentary, ''Though there is no real shortage of hysterical commentary about the end of preferences,'' and we have certainly heard and seen that here tonight, Mr. Chairman, ''very few people have bothered to talk about the strong positive aspects. For one thing, a great burden has been lifted from the shoulders of the University of California's black and Hispanic students. No longer can anybody patronize them or stigmatize them as unfit for their campuses. From now on, all students in the system make it solely on the basis of brains and effort and everybody knows it. The end of preferences will help make campuses far more open and honest places. The deep secrecy that surrounds the campus culture of racial preferences,'' whether we are talking about the University of California, the University of Texas, the University of Michigan or for that matter any other public college or university that engages in racial preferences in making their admissions, setting their policies and in making their admissions decisions today, ''has compromised many officials and led to much deceit and outright lawbreaking. Martin Trow, a Berkeley professor, spoke at a recent academic convention about all the coverups and lying that preferences have spawned, citing as one minor example an Iranian student at Berkeley who said he had been encouraged to list himself as Hispanic in order to qualify for a preference.'' You have academics themselves, Professor Trow at Berkeley, Professor Cohen at Michigan speaking up and saying this is deeply wrong. It is, as I said earlier, anti-American.

Mr. Chairman, the other thing I want to say to the speakers on the other side of the aisle, they seem to be referring, if I understand their argument, to the continued existence of racial prejudice in our society as a justification for racial preferences. I find that argument utterly baffling. I cannot follow the reasoning there, because I do not understand how State-based, State-enforced discrimination based on race, which is exactly what my amendment is intended to ferret out and end, I do not understand how that State-based, State-enforced discrimination can help end discrimination and racism. I do not think the other side has addressed that argument tonight.

The evidence is unmistakably clear. After 25 years of preference, racial preferences continue to be a powerful source of racism and racial resentment in our society. As I said just a moment ago, they have poisoned racial relations at universities and schools across this country. It is time for us to admit to ourselves, to our fellow Americans that race conscious State action is not a cure for racism. It is simply a reinforcement of it.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA).

(Mr. HINOJOSA asked and was given permission to revise and extend his remarks.)

Mr. HINOJOSA. Mr. Chairman, I serve on the Committee on Education and the Workforce. I strongly oppose the Riggs amendment. The elimination of affirmative action programs in California had a devastating effect on new minority student enrollment in the University of California's graduate and professional school programs in 1997. Equally devastating was the effect on the enrollment of the two flagship universities in my own State of Texas. Affirmative action policies have enabled colleges and universities to champion access and equal opportunity for a postsecondary experience for a generation of students. Achieving diversity on college campuses does not require quotas, nor does diversity warrant admission of unqualified applicants. However, the diversity colleges seek does require that colleges and universities continue to be able to reach out and make a conscious effort to build healthy and diverse learning environments appropriate for their missions and communities.

The Nation cannot afford a citizenry unequipped to participate in the educational, social, political, cultural and economical processes of society. Until equity for all students is reached, these opportunities created through affirmative action must continue. It is vital that the reauthorization of the Higher Education Act ensure access to postsecondary education for qualified applicants. The Riggs amendment would effectively shut the doors of higher education to large numbers of minority students.

In conclusion, Mr. Chairman, I urge all my colleagues to vote no on the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina (Mrs. CLAYTON).

(Mrs. CLAYTON asked and was given permission to revise and extend her remarks.)

Mrs. CLAYTON. I thank the gentleman for yielding me this time.

Mr. Chairman, I am in complete opposition to the Riggs amendment that brings affirmative action to a screeching halt in the admission offices in colleges and universities across this Nation. Although the language of this amendment sounds bland and nonthreatening, nevertheless the intent of this amendment is to end affirmative action, those actions which would overcome past discrimination. The sponsors of this amendment talk about affirmative action as if they are quotas, which is not the case. The goal we are trying to reach is equality of opportunity, not based on race. How can we reach this goal when we fail to give opportunities to women and minorities to overcome past discrimination?

I submit, Mr. Chairman, that in order to achieve equality, we must not quit our past endeavors. California and Texas both enacted laws that prohibit universities and colleges from using affirmative action as a legal remedy in cases of discrimination, to use affirmative action to increase campus diversity. Mr. Chairman, this amendment is counterproductive. It puts us further away from the goal we are trying to achieve, equality. I urge my colleagues to oppose this amendment, because discrimination does indeed exist.

Mr. RIGGS. Mr. Chairman, I yield myself 15 seconds, to simply say that as the gentlewoman herself has said, we must guarantee equality of opportunity in our society. But we cannot guarantee equality of results.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. ARMEY), the majority leader, for the purposes of closing debate on our side. No one has worked harder to create educational opportunity for minority children in this country than the majority leader, and he shares my concern, our concern, that we as a country cannot afford to lose another generation of urban school children.

The CHAIRMAN. The gentleman from Texas is recognized for 4 minutes.

Mr. ARMEY. I thank the gentleman for yielding me this time. Mr. Chairman, let me begin by appreciating the gentleman from California (Mr. RIGGS) for bringing this amendment to the floor. It is not a debate that most of us would want to join. It is a difficult subject, there is no doubt about it, but yet it is so important. To bring this subject out as the gentleman has done leaves him open to be easily misunderstood, even more easily misjudged and frankly more likely to be mischaracterized. His courage and commitment to fairness is to be appreciated.

This has been an unusual opportunity for me. In these days I rarely get to listen to an entire debate on any subject. But I did get to hear this whole debate. It is important to me. You see, I do not believe there is anything that we can do as a culture of civilization that can be as important as educating our children. In that task, I believe there is no institution that is more important than the university, because the university gives us our final product and gives us all our inputs as it trains our teachers.

Indeed, I labored in the university for 20 years, so I retain a great interest in it. Of all the things that I heard in this debate this evening, the thing that I found most unfair were the characterizations of American universities made by those in opposition of this amendment. I repeatedly heard people say, ''Oh, we can't do this, because universities will not be fair in their admissions policies.'' Do we think so little of our universities? Do we think so little of our professors? Do we think so little of our admissions officers that we think they will not be fair? Without this, it was argued, the universities will not pursue a policy of diversity.

Well, I have been there. The universities invented diversity. They are committed to it intellectually and emotionally, and they are not going to walk away from it. I also heard a very discouraging assessment of this. How little is our imagination? How little is our courage? We have seen some testimony. Yes, there is progress. There is change. Things are better in America than they were. We have got shame, we have got embarrassment about the way we have treated one another in this Nation in the past, and things are changing.

Now I think the time has come in this great Nation, can we dare, can we dare to move forward? I think this is what the gentleman from California (Mr. RIGGS) is asking us to address. It is not a retrograde road. Do you have so little faith in the goodness of the American people as exhibited in the discussions of your lack of faith in American universities that you believe we will go back to the days of Jim Crow? Or maybe, maybe, America is a Nation that has grown enough in its goodness that the road that we are about to take may be a better road?

The question I think that the gentleman from California is asking us to address, is America a Nation where we believe it is right and a Nation that is capable of living by the idea that every person, every person in this Nation, deserves to be treated the same as everybody else?

One of my great privileges as a Member of Congress is to assist young people in obtaining appointments to the military academies. That is often misunderstood. I can appoint no one, but I can nominate. Repeatedly throughout that process to all the young men and women who come to me, I emphasize that I want them to know, and they need to know that if they get an appointment, they got it on their merits. There is no politics involved in this, no preference, nothing special. Why did they need to know that? Because it is a daunting task for a young person. They need to go to that task knowing that they will be respected by the others at the academy and that they have already proven in the selection process they have the ability and they can therefore go with the courage and the confidence they can succeed.

Does not every young person in America that gains admission to any college, any university, any program deserve the right to know that not he nor anyone else can doubt that he did it on the basis of their own merit, their own intelligence, their own accomplishment? Or must they live with the shadow of worry and doubt that even if they themselves can get beyond it that others will not recognize these things and others will think you got it because somebody in the government defined you arbitrarily as a person in a class to be given preference?

□ 2130

No. A government that can give a child a preference in consideration of matters extraneous to that child's virtue and merit is a government that can give a child prejudicial treatment. Is America ready to have a government that will insist that each child is judged by the quality and the character the child has and the child has exhibited?

I believe what the gentleman from California (Mr. FRANK RIGGS) has asked us to do now is to come to a fork in the road, a fork in the road that says: ''Mr. and Mrs. America, we have faith in your goodness. We believe that you are ready to travel the higher road, the road of fairness, decency, and respect; and we don't believe that we in Washington are either qualified or able to dictate to you the terms by which you should travel that road.''

Let us vote yes for this out of consideration for the young people's right to be treated with decency and out of respect for the goodness that we find in the American people.

Mr. CLAY. Mr. Chairman, I yield the balance of time to the distinguished gentleman from Indiana (Mr. ROEMER) a member of the Committee on Education and the Workforce, to whom we have reserved the right to close debate on this very critical and important issue.

The CHAIRMAN. The gentleman from Indiana is recognized for 2½ minutes.

(Mr. ROEMER asked and was given permission to revise and extend his remarks.)

Mr. ROEMER. Mr. Chairman, I rise in opposition to the Riggs amendment, and I do so even in respect to the gentleman from California (Mr. RIGGS) who I work with on a host of issues.

I would like to tell a more personal story, a personal story about growing up in Indiana where I am born and raised, a story about my mom and dad raising me and teaching me values, values about God and faith, values about giving back to the community and, therefore, my public service, and values about equality. And my mom and dad always said to me, ''Everybody pulls their pants on the same way, and you better treat people equally.''

That was a value and a principle in my household.

Now growing up in predominantly white Indiana in a rural community, I went to a predominantly white high school. But then I went to the University of California at San Diego where they value diversity, where most of the class was made up of people of color and different religions. And while I got a great academic experience, maybe the best experience was the exposure to this beautiful country, people from all different backgrounds and religions and races. And coming from rural Indiana, one of the best experiences of my lifetime.

Now the UC system has declined its enrollment for African Americans by 65 percent; Hispanics, by 59 percent. As the U.S.A. is getting more diverse, some of our colleges are getting less diverse.

Affirmative action, Mr. Chairman, should never be about quotas, it should never be about reverse discrimination, but it should be about what my dad and mom told me: equal opportunity for all. We should make this a value and a principle in this great country of ours.

As the civil rights struggle in the 1960s was about protests, it was about changing laws, the struggle in the new century is going to be about access to education. Savage inequality exists in education in our inner cities. Colleges that consider race for admission should be a value and a principle in this great country.

And let me close, Mr. Chairman, by this. ''E pluribus unum'' is written all over this great Capitol; from the many, one United States of America; from the many, blacks, Asians, Hispanics, one United States of America; from Catholics and Protestants and Jews; from the many, one United States of America for men, women, and children; from the many, one United States of America.

Let us hold affirmative action that puts principle and value on diversity, on equality, on justice as a principle that is so vital to this great country. Let us defeat the amendment offered by the gentleman from California (Mr. RIGGS). Let us continue to reform and make affirmative action a value that works for all people in the United States of America.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to the modified Riggs amendment. This anti-diversity bill would dismantle affirmative action policies in higher learning—by eliminating the ability of public colleges and universities to use gender and race as factors in their admissions decisions.

It would also overturn the Supreme Court's Bakke decision, which allowed postsecondary

institutions to use race as one of the factors considered in an admissions decision.

Another impact of the Riggs amendment would be the resegregation of public universities across the country. And, the development of a two-tiered higher education system that would override the authority of states to decide admissions policy. As a consequence, large numbers of, otherwise qualified minority students, would be denied access to higher education.

Despite the clever machinations of affirmative action opponents, affirmative action policies are not simple preferences based on race, sex, and ethnicity. Nor are they social engineering policies intended to artificially create a color-blind society. Rather, affirmative action policies are specifically tailored to remedy the compounded effects of discrimination and privilege—which have had a profoundly negative impact on minority communities. The elimination of these policies in higher learning would further exacerbate disparities which already plague disadvantaged minority communities.

Affirmative action has allowed minorities and women to break through the many barriers of discrimination that have contributed to keeping them undereducated, unemployed, underpaid, and in positions of limited opportunity for advancement.

The Riggs amendment serves no purpose for higher education beyond exacerbating existing wrongs while maintaining the illusion of true equality. We have already begun to witness what the dismantling of affirmative action policies can do. The precipitous decline in minority admissions and enrollment experienced by the California higher educational system after the passage of Proposition 209, is a good example of what can happen. As such, UCLA's law school has seen an 80 percent drop in the number of African American students offered admission for next fall. This is the lowest number since 1970. And, of the 8,000 students offered admission to the University of California at Berkeley for next fall, only 191 were African Americans and 434 were Hispanic. This is in comparison to 562 African American and 1,045 Hispanic students, respectively, last year.

Eliminating affirmative action policies serves no purpose beyond fostering the development of a society based on privilege. Those privileged enough to have access to superior academic institutions are those deemed to have merit. Those who do not, are not. Disadvantaged minorities—due to a long history of systemic discrimination—are more likely not to have access to these structures. Ending affirmative action would simply assure the perpetuation of this already unfortunate system.

Mr. Chairman, I strongly urge my colleagues to vote ''no'' on the modified Riggs ''Anti-Discrimination in College Admissions'' amendment. The passage of this extreme measure would threaten the reauthorization of the Higher Education Act, as the President has indicated that he will veto H.R. 6 if this amendment passes. Support for the Riggs amendment would do more harm than good.

Mr. BENTSEN. Mr. Chairman, I rise in strong opposition to this amendment. This amendment would severely undermine efforts to provide opportunity for women and minorities, and its language is so broad and vague that it could even prohibit remedial action in cases of proven discrimination.

This amendment goes beyond what even the courts have said on this issue. It would overturn the 1978 Supreme Court decision in Bakke versus California Board of Regents, which found it constitutional for schools to use affirmative action to advance diversity in education. It would even go beyond the 1996 Fifth Circuit Court of Appeals ruling in Hopwood versus Texas by prohibiting the use of affirmative action where there is proven discrimination on the basis of race, sex, color, ethnicity, or national origin.

This amendment's language is so vague and poorly-defined that the only safe course for colleges or universities would be to make no effort whatsoever to achieve a student body which mirrors the demographics of the communities they serve. The amendment fails to define ''preferential treatment'', leaving in doubt whether basic efforts such as recruitment, outreach, targeted financial assistance, mentoring, and counseling would be legal. This is not only bad social and educational policy, but a recipe for endless and costly legal wrangling.

Recent experience in my state of Texas underscores how harmful this amendment would be to minority access to higher education. In the 1996 Hopwood decision, the Fifth Circuit Court of Appeals ruled that race could no longer be used as the basis for affirmative action in admission to the University of Texas at Austin. Subsequently, the Texas Attorney General ruled that no colleges in the state could use race as a factor in admissions or financial aid programs.

The result has been a devastating decrease in enrollment by minority students. Undergraduate enrollment by African-American freshman has fallen by 14 percent at the University of Texas at Austin and by 23 percent at Texas A&M University. Hispanic enrollment has dropped by 13 percent at the University of Texas and 15 percent at Texas A&M. At the University of Texas Law School, African-American and Hispanic enrollments have decreased by 87 percent and 46 percent respectively. Medical school enrollment for African-Americans has fallen by 40 percent.

Mr. Chairman, these dramatic declines are harmful not only to minority students, but to our society as a whole. African Americans currently comprise 11.5 percent of the Texas population, and Hispanics comprise 27.7 percent. In contrast, African Americans and Hispanics number only 9 percent and 18.8 percent, respectively, of the student bodies of state colleges and universities in Texas. Alarmingly, only 2.9 percent of students accepted for undergraduate studies at the University of Texas in Austin for the 1998–99 school year are African American.

Clearly, a large segment of society would be left behind if efforts to equalize opportunity and diversify the composition of student bodies are eliminated. When opportunity is eliminated, all students are denied the benefits of learning in a diverse environment, which is critical to succeeding in a diverse workplace and society. Minorities are already under represented in professions such as medicine and law. In an increasingly diverse society and global economy, we ignore this problem at our own peril.

Like other Americans, I want a color and gender blind society. However, we cannot close our eyes and pretend that we live in a perfect world. Discrimination still persists. Too often, individual or institutional discrimination, intentional or not, precludes minorities and women from participating in many levels of our society. Not only is that detrimental to the individuals affected, it hurts our nation and our economy.

Like most things in life, the battle against discrimination has sometimes resulted in reverse discrimination. This is counterproductive. I welcome the Administration's continuing review of existing affirmative action statutes. Government should always be willing to review existing laws. However, we must not reverse efforts toward achieving equality and advancement over the last 25 years.

The Hopwood decision in Texas, as well as Proposition 209 in California, have slammed the door of opportunity for minorities. The Riggs amendment would only compound the damage that has already been done. The Congress of the United States should be working to create and expand opportunity, not to deny it. I urge a no vote on the Riggs amendment.

Mr. RIGGS. Mr. Chairman, fundamentally this debate is about the refusal of my colleagues on the other side to give up their Band-Aid—their fig leaf—their placebo for the failure of their great society social programs and the failure of the public education system in America. The poor in this country, white and black and Hispanic and Asian, were trapped for forty years in a dismal and dysfunctional welfare system that we have only now begun to dismantle. They are still trapped in a public school system that is betraying our nation's children—a public education system that we on this side of the aisle have tried again and again to reform. We've tried with education savings accounts, with parental choice in education, with shifting power and responsibility and accountability from Washington bureaucracy and powerful teachers unions to states and localities and families. And every one of our efforts—every one—has been resisted tooth and nail by my colleagues on the other side of the aisle, and by the Clinton administration. They will do nothing to reform primary and secondary education: They did worse than nothing for twenty years to reform welfare. What they will do, is defend to the death the right of government to discriminate based on race and sex. Because that is their Band-Aid, their fig leaf, their placebo for a public education system that traps hundreds of thousands of young children in unsafe and underperforming schools. Our children deserve better. And this amendment is part of doing better for them and by them. Support my amendment.

Mr. FAZIO of California. Mr. Chairman, today my colleagues and I have the opportunity to increase access to higher education for all Americans by supporting H.R. 6.

However, a proposed amendment by Congressman RIGGS promises to have the opposite effect by eliminating affirmative action and closing the window of opportunity that higher education offers.

As Americans, we are committed to equal opportunity for all, and special treatment for none.

All of us should have the opportunity to perform and prove our capabilities.

Proponents of anti-affirmative action believe that we lower standards when we support these particular programs.

On the contrary, I believe that we raise the standard by admitting individuals from diverse backgrounds.

They in turn, will provide the role models to enrich and properly reflect the American fabric.

We level the playing field by allowing the under represented population to compete in arenas historically closed to them.

I am concerned about any legislation that eliminates state and local efforts which are designed to increase opportunities for women and minorities—services like counseling and recruiting programs to boost enrollment among minority youth, and math and science programs developed to help girls in secondary school.

Higher education is filled with preferences. According to the Riggs amendment, it's OK to grant preferential treatment to sons and daughters of alumni, to athletes, to other special talents or one based on geography—they are considered legitimate areas for preferential treatment.

But the Riggs amendment says that race, sex, color, and ethnicity are not legitimate.

Eliminating affirmative action sends the wrong message.

UC Davis, a university in my district, is seeing an alarming decline in enrollment from well qualified minority students.

The campus now scrambles for outreach to properly reflect California.

Meanwhile, private colleges in my state are more engaged than ever in seeking to diversify their student body.

The Republicans preach local control—but only when it's to their advantage. Today they want Congress to be the Admissions Office for all of America's public colleges.

Let's let educators decide what students they want, not politicians.

Vote no on the Riggs Amendment.

Mrs. MALONEY of New York. Mr. Chairman, I rise in opposition to the Riggs amendment which would ban colleges and universities that consider race and gender in the application process from receiving Higher Education Act funding.

Many of America's educational institutions try to correct past discrimination or to achieve the benefits of a diverse student body by taking race and gender into consideration in admissions. This amendment would force these colleges and universities to choose between abandoning these important policies or their participation in any Higher Education Act Program.

In the year after the University of California's Board of Regents approved a policy prohibiting all affirmative action measures in public universities, the number of African Americans admitted to UCLA law school dropped by 80%, and at UC-Berkeley law school by 81%.

Next fall's UC-Berkeley incoming class has dropped 66% for African Americans and 53% for Hispanics.

When affirmative action is done right it is fair and it words.

It is not quotas.

It is not, and I do not favor, rejection or selection of any person solely on the base of gender or race without considering merit and qualifications.

I believe there will be a day when we do not need affirmative action, but we are not there yet. The statistics show that the job of ending discrimination in this country is not over.

Mr. PAYNE. Mr. Chairman, I would like to voice my adamant opposition to Mr. Riggs' amendment. Congressman Riggs and his supporters believe that the days when affirmative action policies are needed are over. I suppose they believe that equality has been reached when only 18 percent of those enrolled in colleges are minorities but African Americans, Hispanics and Native Americans make up 30 percent of the college age population. I guess they believe that diversity is reached when only 33 percent of all African American high school graduates attended college in 1993 compared to nearly 42 percent of whites.

Affirmative action is still needed and without it the composition of our colleges and university campuses will be reminiscent of what they looked like 30 years ago. We have seen this very thing happen in States such as California and Texas where minority admissions have declined because of anti-affirmative action laws.

This year the University of California campuses report they received more minority applications with stronger academic credentials than ever before. At the same time, UCLA's law school saw an 80 percent drop in the number of African-American students offered admissions for next fall which is the lowest number since 1970.

This is a clear indication of how crippling anti-affirmative action laws can be to the education of minority populations. Many minority students in California are viewing this anti-affirmative action law as evidence that the University of California system does not value diversity on their campuses.

Therefore, they are starting to consider going out of state for school which is much more expensive. By passing the Riggs amendment we will send the same message to all minority students nationwide. Additionally, the loudest battle cry I hear from opponents of affirmative action is that the practice of using quotas and set asides is wrong and needs to be eliminated.

Congressman RIGGS has chosen the wrong area to combat such a belief because under the Supreme Court *Bakke* (back-ee) decision, schools are not allowed to use quotas and set asides in their admissions process.

They may, however, exercise their right to consider race and gender as ONE of the factors in their admissions decisions. This is not discrimination. This is not preferences. This ruling simply allows colleges and universities to have the freedom to choose the students who become part of their institutions.

I believe that if this amendment passes it will have a dramatic and adverse effect on the minority student population at our colleges and universities. And that, Mr. Chairman, would be one of the biggest tragedies I can imagine. I ask my colleagues to consider this when they cast their vote on this amendment.

Mr. RODRIGUEZ. Mr. Chairman, I rise today in opposition to the Riggs amendment. Even after being redrafted by its sponsor, this measure punishes minority students and shortchanges institutions of higher learning.

The amendment assumes we are in a society that is free from discrimination, and that Hispanic and African American students have equal opportunity. The fact of the matter is that discrimination is alive in our society and that while much lip service is paid to equality—for minority students it is far from a reality.

This is why our colleges and universities across the country have turned to affirmative action.

Our institutions of higher education take race and sex into consideration because they know that a diverse student body benefits everyone and provides an educational setting for our students that mimics the real world.

I think everyone in this chamber would agree that students learn as much from each other as they do from their professors and books—and this is all the more true when students are fortunate enough to be in a richly diverse campus.

We must not revert to the days of the educational 'haves' and 'have nots' and keep some of our brightest minds from seeking out public colleges.

If this ill-willed amendment is adopted, some students may be able to take the road to private campuses. But, what is most distressing is that many minority students may have no option at all—and that the cleavages in our society will continue to expand.

The problem here is that the Riggs amendment does not really address the problem of discrimination or equality. What it really does is prohibit our public colleges from using the most effective tools to help remedy past discrimination.

Surprisingly the Riggs amendment would dramatically expand the federal role of education in an area where states and localities should have control. We preach about limiting the federal government's role in education—but what we are doing here is in fact grossly expanding it.

In a recent letter to members of Congress, both Attorney General Reno and Secretary Riley promised to call for a presidential veto to HR 6 if the Riggs amendment is included.

Let us not be fooled by the new Riggs amendment. I urge my fellow colleagues to take a close look at the fine print in this amendment and see how detrimental it will be to our schools and to students.

In my home state of Texas, where affirmative action has been killed, the University of Texas law school now has only four entering African American students, where former classes had more than thirty. The same holds true for the California schools where a similar proposal has been adopted—there has been a significant drop in the number of minority admissions. This is a step backwards and it must be stopped!

We are talking about the future of an entire generation of students. We must offer our FULL support and help them pursue their educational dreams.

I urge my colleagues to reject this measure and stand up for diversity and strength.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I rise in strong opposition to the Riggs Amendment to eliminate affirmative action in higher education. This amendment would have a devastating effect on efforts to correct past discriminations on our college campuses and I would urge my colleagues to oppose this amendment.

The landmark Supreme Court decision Bakke v. California Board of Regents recognized the use of affirmative action as a constitutional means to advance diversity in higher education. The Riggs amendment would eliminate affirmative action even if the courts ordered it as a remedy where there is proven discrimination on the basis of race, sex, or ethnicity.

I have been contacted by Yale University and the University of Connecticut in my home state, as well as many other academic associations, religious organizations and civil rights organizations from across the country who have joined together to express their strong opposition to the Riggs Amendment. It is intrusive and would dictate college admissions policies to public and private institutions by limiting their ability to select students based on the needs of those institutions. Our institutes of higher learning strive to provide the best educational experience possible for American's students. We should not hinder this effort by restricting a school's ability to promote a strong and diverse student body.

The devastating impact of the Riggs amendment on minority enrollment is already evident in the California school system where enrollment by minorities has dropped significantly. As we move into the 21st century with a increasingly diverse and global economy we must ensure that access to higher education is not closed off to the young people of this nation. Rather we should welcome the talents of all our citizens.

I urge my colleagues to oppose the Riggs Amendment.

Mr. MCINTOSH. Mr. Chairman, I support the Riggs Amendment to Title XI of H.R. 6, the Higher Education Re-Authorization Bill, because I believe that it will make America a more fair country.

I believe that America should be a place where people of merit can get ahead based upon their own capabilities, and ''not be judged by the color of their skin but by the content of their character'' in the words of the great Reverend Martin Luther King, Jr.

The American people overwhelmingly oppose the use of racial quotas in higher education. Surveys show that 87% of all Americans, and a full 75% of African Americans, feel that race should not be a factor in admission to a public university.

Federal appellate courts, including the U.S. Supreme Court, have repeatedly struck down racial preference systems used by college admission offices as unconstitutional.

People of color deserve to be proud of their academic credentials. Racial quotas only diminish the significance of their accomplishments.

The statutory law as it currently stands automatically presumes that a person of color grew up in disadvantaged circumstances, and deserve a ''leg up'' in the admissions process. This is a hard message to accept for many of the voters in my district who come from families of modest means.

I would like America to be a color blind society. Unfortunately, this is simply impossible when America's young adults are forced to confront the differences that the color of their skin bears upon whether they'll get into the college of their choice or not.

This is a period in their lives when they form the opinions which they will carry with them throughout adulthood. I am afraid that the frustrations caused by racial quotas causes too many of them to be conscious of race in every setting.

Racial preferences in college admissions violate the principles of freedom and equality on which the civil rights struggle is based. Racial preferences are both immoral and legally unconstitutional.

The field should be level in college admissions. Race should not be a factor.

For these reasons and others, I support the passage of the Riggs Amendment.

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to the Riggs amendment to H.R. 6, which would prohibit public institutions of higher education from receiving federal funding if they use race or gender in making admissions decisions.

The status of admissions in California in the wake of Proposition 209 illustrates the harmful way in which the Riggs amendment would impact the nation. Statistics already show a drop of over 50% in undergraduate admissions at UC Berkeley for African Americans, Latinos and Native Americans.

Acceptance by students is not the only place where the elimination of affirmative action has had a crushing impact. It has an impact on acceptances by students as well. Many of the highest-scoring African American students are turning down the University of California in favor of private universities. African American faculty at the university are discouraging prospective African American students from enrolling because the faculty regard Berkeley as a divisive areas and a national laboratory for the dismantling of affirmative action programs in higher education. Enrollment of African Americans at UC Berkeley has dropped 66 percent this year, and enrollment of Latinos has dropped 53 percent at that university. At the UC Berkeley Boalt Hall law school, none of the African-American students accepted into the class of 1997 chose to enroll.

Affirmative action programs are part of a larger commitment to student diversity which enriches the educational experience, strengthens communities, enhances economic competitiveness, and teaches our students how to be good leaders. This amendment is another opportunity to erode decades of progress in ensuring that diversity in higher education for all Americans. It is just another extreme effort, as we saw in the transportation bill, to eliminate federal programs that provide opportunity for women and minorities.

This bipartisan Higher Education bill has many benefits for our nation's students. The Riggs amendment most certainly is not one of them. It will have a crushing effect on diversity in higher education. I urge my colleagues to support educational opportunity for all Americans and oppose the Riggs amendment.

Mr. DIXON. Mr. Chairman, I rise in strong opposition to the Riggs amendment to H.R. 6 which would ban the use of affirmative action in admissions for public colleges and universities that receive funding under the Higher Education Act.

The House should reject this amendment. It is another step down the road of educational segregation led by California Proposition 209, the University of California affirmative action ban, and the Hopwood decision in the U.S. Court of Appeals for the Fifth Circuit. The Riggs amendment overturns the U.S. Supreme Court's ruling in Regents of the University of California v. Bakke, which for twenty years has allowed America's universities to provide opportunities for many disadvantaged minorities. This amendment is an unfair federal intrusion into the college and university admissions process and its passage will likely result in a veto of this important reauthorization legislation.

Mr. RIGGS says in his Dear Colleague letter that he wants to ''ban all preferences and quotas in college admission[s].'' My question is what quotas and preferences? His amendment fails to define them. Is the mere consideration of race as one factor in a complex admissions process considered a preference, even when there is no specific numerical goal for admission of a particular group? There have been ''preferences'' for white Americans since this country was founded. It is only when universities engage in legal, valid attempts to provide a level playing field for minorities that people see a preference problem.

Consider that while African Americans, Latinos, and Native Americans make up 28 percent of the college-age population, they account for only 18 percent of all college students. Only 33 percent of African American and 36 percent of Hispanic high school graduates ages 18–24 attended college in 1993, compared to 42 percent of whites in this age group.

Recent evidence suggests that the anti-affirmative action initiatives of the past few years will only make this situation worse. A year after the UC Regents' decision to ban affirmative action in the UC system, the number of African Americans admitted to the UCLA law school dropped by 80 percent and the number admitted to the Berkeley campus dropped by 81 percent. The fall 1997 semester at Boalt Law School of UC Berkeley witnessed the matriculation of only one Black student in a class of 268. Out of the 468 students in the first-year University of Texas Law School class, only four are African American.

Statistics on UC undergraduate admissions for the fall 1998 class—the first class which will suffer the full brute force of Prop. 209—are equally startling. The number of African Americans admitted to UC Berkeley and UCLA dropped 66 percent and 43 percent, while the number of Latinos dropped 53 percent and 33 percent.

Supporters of the Riggs amendment may be quick to cite today's Los Angeles Times, which reports that Boalt Law School at Berkeley has admitted more than twice the number of African Americans—32—for fall 1998 than were admitted last year. This is great news. However, it does not obviate the need to defeat this amendment. The numbers throughout the UC system are still paltry, and adoption of the Riggs amendment would replicate the UCLA and Berkeley minority undergraduate admissions decline nationwide.

The UC admissions statistics provide incontrovertible evidence that the Riggs amendment would jeopardize educational gains for minorities made in the aftermath of the Bakke decision. In Bakke, the Court held that in certain instances a college or university may consider race in admissions. Examples include the consideration of race to remedy an institutional history of discrimination and the promotion of a university's mission to create a diverse student population. If passed, the Riggs amendment would force public colleges and universities to choose between providing opportunities for minorities and women and receiving funds under the Higher Education Act.

The many schools across the nation that would be affected by this amendment generally have admissions processes based on an array of complex factors. These factors measure not only an applicant's potential for individual academic success but also an applicant's ability to contribute positively to the institution overall. The Riggs amendment represents an unfair federal intrusion into those

processes. We cannot afford to tie the hands of American's universities at a time when minorities still lag behind the rest of America in educational attainment.

The Kerner Commission Report thirty years ago stated that ''Our Nation is moving toward two societies, one black, one white—separate and unequal.'' A new report by the Milton S. Eisenhower Foundation, ''The Millennium Breach,'' suggests that the prediction has become a reality with minorities disproportionately represented among the poor and an ever-increasing gap between rich and poor. If, as I believe it is, education is the key to economic empowerment, then the Riggs amendment will only continue America's progress toward economic and social segregation.

I urge a ''no'' vote on the Riggs amendment.

Mr. LANTOS. Mr. Chairman, I rise today to support affirmative action programs in this nation and to oppose strongly this unfortunate amendment that the House is considering. This amendment is an outrageous assault upon the Constitutional responsibilities of American colleges and universities. If Amendment 73 is adopted, we would face debilitating nation-wide consequences which would destroy the years of progress our higher education system has made in compensating for past and present discrimination against women and minorities.

Affirmative action programs are still needed. Years of past discrimination coupled with continued discrimination have deprived many women and minorities of equal access to higher education. The long shadow of historical legal discrimination is still visible in our country; this discrimination was propagated and enforced by the federal government.

President Clinton has reminded us that there is still no level playing field for women and people of color. Mr. Speaker, now is not the time to forget that bigotry, inequality, and economic barriers still close doors everywhere for women and minorities. Mr. Riggs' amendment (Amendment 73) would prevent educational institutions from providing disadvantaged students with scholarships, financial aid, support programs, and outreach programs are essential if students from disadvantaged communities are to have access to higher education, which is the prerequisite to their economic and social advancement.

In the Bakke decision, the Supreme Court upheld the use of affirmative action to advance diversity in education. Colleges and universities voluntarily administer affirmative action programs to comply with their statutory and Constitutional obligations to end discrimination in higher education. Certain institutions would be placed in the absurd position of being cut off from federal funding while attending to court-ordered desegregation plans. This legislation would create a serious backlash against current legal redress for past discrimination.

Mr. Speaker, if affirmative action admission programs are banned, we would lose a valuable tool for combating the existence of ignorance and prejudice. Attending a diverse campus gives students the opportunity to confront face-to-face the stereotypes and harmful assumptions about difference in our country. The college experience is one of peer exchange. There are few better ways to break down stereotypes of race, ethnicity, and gender in this country than allowing students to live and study together in a community of mutual respect and understanding.

We cannot have an effective dialogue on racism and bigotry in this country unless everyone is given an equal chance to attend college and obtain a college degree. The economic divisions in this country are linked to education levels within any given group. It is not a tragedy of circumstance that those minorities with the lowest levels of higher education attainment are also the poorest people in our country. This ill-conceived amendment would not only re-segregate our colleges and universities, it would have a chilling effect upon the larger society.

As a proud alumni of the University of California at Berkeley, I am appalled by the plunge in undergraduate admissions of minority students since the ban on affirmative action in California was approved in a state referendum. That unfortunate California referendum is the fundamental idea behind this amendment that we are considering, and its consequences in California have demonstrated why we must oppose it. In California, admissions of Chicano, Latino, and African American students for the coming freshman class have dropped by more than half. In the recent fall class of the Boalt Law School at Berkeley only seven African-American students were admitted, and only one chose to enroll.

Mr. Speaker, this ill-conceived amendment by Mr. RIGGS sends a message to women and minorities that they are not welcome in institutions of higher learning. This bill proclaims loudly that we do not want a just society, that we would rather turn our backs and not accept the existence and legacy of discrimination.

I am not alone in decrying the effect of eliminating affirmative action. Mr. Speaker, sixty-two of our country's most prominent university presidents oppose this legislation and have placed advertisements in national papers to emphasize the importance of racial, ethnic, and gender diversity in contributing to a strong entering class.

The students of the University of California, Berkeley, one of the finest public universities in this country and my alma mater, have taken it upon themselves to speak out against H.R. 3300 and to speak in support of affirmative action. H.R. 3300, introduced by Mr. RIGGS, is the stand-alone version of Amendment 73 which we are now considering.

Mr. Speaker, on Wednesday, April 22, the Associated Students of the University of California (ASUC) unanimously approved a resolution opposing these provisions. I am proud that the students stand firmly united against this harmful measure. Mr. Speaker, I ask that the statement be included in the RECORD. Let us learn from them.

A BILL OF THE ASSOCIATED STUDENTS OF THE UNIVERSITY OF CALIFORNIA IN OPPOSITION TO THE ''ANTI-DISCRIMINATION IN COLLEGE ADMISSIONS ACT OF 1998'' (HR 3330)

Authored and sponsored by: ASUC External Affairs Vice-President Sanjeev Bery

Whereas: The misnamed ''Anti-Discrimination in College Admissions Act of 1998'' (HR3330) would prohibit colleges and universities from using affirmative action in college admissions if they receive any federal funds; and

Whereas: If any student at a university receives federal loan money or Pell grant funds, the university would be prohibited from using affirmative action in admissions; and

Whereas: Representative Frank Riggs is the author of this resolution, and is almost certain to offer it as an amendment to the Higher Education Act when it is reauthorized on April 22, and

Whereas: Affirmative action programs establish equal opportunity for women and people of color, redress gender, racial, and ethnic discrimination, and encourage diversity in the workplace and educational institutions; therefore, be it

Resolved: that the Associated Students of the University of California oppose Congressman Riggs' ''Anti-Discrimination in College Admissions Act of 1998'' and urge all California members of the Congress to oppose this resolution.

Mr. THOMPSON. Mr. Chairman, I rise today in opposition of Representative FRANK RIGGS' H.R. 3330, the ''Anti-Discrimination in College Admissions Act of 1998'' which will be offered as an amendment during the House consideration of H.R. 6, The ''Higher Education Authorization Act'' of 1998. This amendment would prohibit colleges and universities that take race, sex, color, ethnicity, or national origin into account in connection with admission(s) from participating in, or receiving funds under any programs authorized by the Higher Education Act of 1965 (HEA).

This amendment will not only have a devastating impact on post secondary admissions at both public and private institutions, but also discourages institutions from considering race, even in instances where the purpose is focused on remedying past discrimination. This piece of legislation is far more sweeping than California's Proposition 209 in that H.R. 3330 aims to eliminate affirmative action in private, as well as public, colleges and universities. It will also constrain an institution's ability to satisfy constitutional and statutory requirements to eliminate discrimination in post secondary education.

There is now evidence of what happens when universities are forced to drop their affirmative action programs. The University of California's board of Regents banned all affirmative action and the acceptance rate of African Americans to UCLA Law School fell by eighty percent. After the Hopwood decision, admission of African-Americans to the University of Texas School of Law dropped by eighty-eight percent. It is clear that with the passage of this amendment, there will be a re-segregation of colleges and universities.

In Mississippi the percent of the population 25 years and older who have a college degree is 14.7%. Moreover, Mississippi ranks 47th out of fifty states in relation to the percent of the population having a college degree and 47th out of 50 in comparison to other African Americans in the fifty states.

The Riggs amendment is an unnecessary, regressive, and dangerous bill that would destroy the progress that has been achieved in the last thirty years. This amendment will merely serve as a tool to increase the disparities in education and income between men and women and whites and blacks. Affirmative Action in higher education has clearly established significant advances in the area of equal opportunity for ethnic minorities and women in admissions to colleges and universities and the workforce. I will continue to support programs which strengthen not tear apart equal opportunity. If the Higher Education Authorization Act (H.R. 6) contains the ''Anti-Discrimination in College Admissions Act of 1998'', I will vote against H.R. 6.

Ms. CHRISTIAN–GREEN. Mr. Chairman, I rise in strong opposition to the Riggs amendment. It is an extreme, vindictive political ploy

which will serve only to prevent innocent children from seeking a better quality of life through the pursuit of higher education—and it should be voted down!

My colleagues, the Riggs amendment would say to Black and Latino taxpayers that even though you, because of these very same programs, help to pay for the cost of public education in your state, college administrators cannot design outreach programs to maximize opportunities for your children to attend their institutions. This is wrong.

As an African American physician, I want you to know that the passage of this ill-conceived amendment would serve to reduce the already existing shortage of African-American physicians in this country.

In an article entitled, ''Can Black Doctors Survive'', Dr. Jennifer C. Friday of the Joint Center for Political and Economic Studies, points out that even despite affirmative action programs instituted by medical schools in the 1960's and 1970's African Americans comprised only 3.1 percent of all the nations physicians in 1980 and still are only 3.6 percent of the total today. This is unacceptable.

We all know that there is a shameful gap in the health status of minorities in this country. Increasing the number of minority physicians is critical to closing this gap.

I am sure there are those among us who would say that the action by the Board of Regents of the University system in California and the ruling in the Hopwood case in Texas could have been mitigated by other policies that could be and were put in place in these two states.

My colleagues, I want to make sure that you know that this has not been the case. The numbers of African Americans and Hispanic admissions in the California and Texas University system, as predicted, have dropped precipitously.

I am totally confounded that anyone could think that discrimination no longer exists, or that educational opportunities are now equal for all races and ethnic groups in this country.

This is clearly and unfortunately not the case. America's children who live in predominantly minority communities do not receive the same level of funding per student and their education is consequently shortchanged. That is why some of us are frequently on the floor arguing for repair, construction and support for our public school system.

My colleagues the Riggs amendment should be defeated because it would: result in the resegregation of public universities across the country; prevent public universities and colleges from remedying past discrimination; produce a two-tiered higher education system which would override the authority of state governments to decide admissions policy; and endanger targeted outreach and recruitment programs for women and minorities.

This proposal is an outrage and flies in the face of all that America stands for. It is as was said in last Thursday's Washington Post, nothing more than political ''grandstanding'' which ''demeans the House'' and should be defeated. I urge my colleagues to vote no on this amendment.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from California (Mr. RIGGS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. RIGGS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 249, not voting 13, as follows:

[Roll No. 133]

AYES—171

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bono
Brady
Bryant
Bunning
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
Kingston
Knollenberg
Kolbe
Latham
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Matsui
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Nethercutt
Northup
Norwood
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Ramstad
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Young (FL)

NOES—249

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Buyer
Capps
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith, Adam
Snowbarger
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wise
Wolf
Woolsey
Wynn
Young (AK)

NOT VOTING—13

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Schaefer, Dan
Shuster
Skaggs
Yates

□ 2156

Mrs. MYRICK, and Messrs. GILCHREST, SNYDER, STUPAK and RUSH changed their vote from ''aye'' to ''no.''

Messrs. COBURN, THUNE and GREENWOOD changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2200

PERSONAL EXPLANATION

Mr. MATSUI. Mr. Chairman, I ask that the RECORD reflect that I voted the wrong way on the Riggs amendment. I intended to vote no. I made a mistake and voted the wrong way.

LIMITING DEBATE TIME ON AMENDMENT NO. 79

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that all debate on Amendment No. 79 and all amendments thereto be reduced to 10 minutes, equally divided and controlled by myself or my designee and the gentleman from Missouri (Mr. CLAY), or his designee, with an additional 90 seconds on each side for a wrap-up.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. CAMPBELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CAMPBELL. Is it not customary to have the Reading Clerk read the amendment first?

The CHAIRMAN. Under the rule, the amendment will be considered as read. The gentleman is offering the amendment at this point?

AMENDMENT NO. 79 OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 79 offered by Mr. CAMPBELL:

At the end of the bill add the following new title:

TITLE XI—NONDISCRIMINATION PROVISION

SEC. 1101. NONDISCRIMINATION.

(a) PROHIBITION.—No individual shall be excluded from any program or activity authorized by the Higher Education Act of 1965, or any provision of this Act, on the basis of race or religion.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to preclude or discourage any of the following factors from being taken into account in admitting students to participate in, or providing any benefit under, any program or activity described in subsection (a): the applicants income; parental education and income; need to master a second language; and instances of discrimination actually experienced by that student.

The CHAIRMAN. Pursuant to the order of the Committee today, the gentleman from Pennsylvania (Mr. GOODLING), or his designee, and the gentleman from Missouri (Mr. CLAY), or his designee, will each control 6½ minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, this is what my amendment provides. I would like to ask my colleagues' indulgence so I can read it, and I am also going to ask the gentleman from California (Mr. HORN) to make the copies available over to the Democratic side so that they actually have the text, if he might assist me in that, or the gentleman from New Hampshire (Mr. BASS).

Mr. Chairman, it reads: No individual shall be excluded from or have a diminished chance of acceptance to any program or activity authorized by the Higher Education Act of 1965, or any provision of this act, on the basis of race or religion.

Mr. Chairman, there is a second clause which says that no one shall be excluded from a program or their chances of getting into the program diminished on the basis of their race or their religion. I list other things which might be considered as an alternative.

Existing law prohibits exclusion of anybody on the basis of their race. And I want to say ''thank you'' to several colleagues on the Democratic side with whom I almost had an agreement that this be accepted. At the last minute it was not possible, but I want to thank the good faith that went into the effort on that behalf.

The existing law says we may not exclude on the basis of race. I am saying that we may not exclude or have the chance of acceptance diminished on the basis of race. And I suggest this at least is what all of us could agree on is what good affirmative action is.

Mr. CLAY. Mr. Chairman, I rise in opposition to the amendment, and I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, I too rise in opposition to this amendment. I would point out to our colleagues, I believe this is essentially the same issue we just defeated on the last vote and I would encourage them to do the same on this vote.

I also oppose this because I believe it is a breeder of litigation. I believe that this amendment will not breed equality; I believe it will breed litigation. To understand why, imagine the case of a student who applies for a job under a Federal Work Study program, which is a program authorized under the act, and the student alleges that he or she has been denied the job on the basis of race. This amendment does not answer the following questions:

One, must the student prove that there was discriminatory effect or discriminatory intent? Secondly, who has the burden of proof under this amendment? Does the student have to prove that he or she has been the victim of discrimination or is the burden on the institution to show that the student was not the victim of discrimination? And finally, what is the quantum of proof? Does the person carrying the burden have to prove this to a preponderance of the evidence? To a substantial degree? Beyond a reasonable doubt?

Those are all questions that I believe are not satisfactorily answered in the amendment. I believe it captures the same spirit of the amendment we just defeated, but I also believe it breeds litigation and would cause considerable chaos in higher education programs.

Mr. Chairman, I urge its defeat on that basis.

Mr. GOODLING. Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, we have 3 minutes remaining, and I reserve the balance of my time.

The CHAIRMAN. Just to clarify for the Clerk, the gentleman from California (Mr. CAMPBELL) is offering Amendment No. 79 or Amendment No. 76?

Mr. CAMPBELL. Mr. Chairman, I do not know the number. I am offering the amendment whose text I read and which was preprinted. Mr. Chairman, it is 76, I am informed. I am informed it is 76.

The CHAIRMAN. For the benefit of all Members, it is the Chairs' impression that amendment intended to be considered now is Amendment No. 76 as preprinted.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. CAMPBELL).

The CHAIRMAN. Without objection, the time limit previously agreed to by unanimous consent will apply to this debate.

Mr. GOODLING. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, I am prepared to close in less than a minute. Existing law answers all of the questions that were put by the gentleman from New Jersey (Mr. ANDREWS), my good friend and colleague. Existing law says that no person in the United States shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

My proposal says, in addition, it does not repeal that. It says no individual shall be excluded from or have a diminished chance of acceptance to any program or activity authorized by the Higher Education Act of 1965 or any provision of this act on the basis of race or religion.

It then goes on to say that nothing in that subsection I just read shall be construed to preclude or discourage any of the following factors from being taken into account and admitting students to participation in or providing any benefit under any program or activity described in subsection A: Applicant's income, parental education and income, need to master a second language, an instance of discrimination actually experienced by that student.

Mr. Chairman, I conclude by saying there is no one I think in this body who wants to exclude anyone from a Federal program on the basis of that person's race. That is what this amendment makes clear. It should have been noncontroversial. I am hoping that it is when the vote comes.

Mr. Chairman, I yield back the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, this amendment is really no different than the amendment that we have already defeated. It goes to the very heart of this country's obligation to people who have not had the same opportunities in education, to

open up their opportunities by allowing them entry into our universities.

The Riggs amendment said we could not take into account the necessity of diversity in our campuses by giving an advantage to some group, some racial group, national origin group, so that they could create a much more diverse community in our universities.

What this amendment offered by the gentleman from California (Mr. CAMPBELL) says is not the question of admitting but excluding. We cannot exclude. What does exclude mean? We already have definitions in the law under Title VI of the Civil Rights Act that call for nondiscriminatory action. The gentleman is asking this House to interpret exclusion perhaps from a program as per se discrimination. That is wrong.

If Members voted against the Riggs amendment, they must vote against this amendment also. It is much more mischievous. It creates a great confusion on Title VI of the Civil Rights Act, and I hope that Members will defeat this amendment.

I know that my colleague in speaking earlier on the Riggs amendment broke my heart when he talked about Asian Americans scoring very high, not being able to get into the university. I feel for those individuals. But I as a human being, as an American citizen, I have an obligation to make sure that our public universities have an opportunity for everyone. This means to create a diverse university with the ability to create this we have to have an affirmative action program.

So to adopt this amendment, to say that if we exclude someone it is a per se act of discrimination, we are creating a whole new legion of law and having to bring in the lawyers to interpret this. This is very bad. This is mischievous. I urge my colleagues to defeat this amendment.

The CHAIRMAN. The Chair seeks one last clarification. The Chair and the Parliamentarian are convinced that the author intended to offer and read to the Committee his Amendment No. 79 as preprinted; is that correct?

Mr. CAMPBELL. That is correct, Mr. Chairman.

Mr. CLAY. Mr. Chairman, we are now debating Amendment No. 79?

The CHAIRMAN. The Committee has been debating Amendment No. 79 since it was offered.

Mr. CLAY. Mr. Chairman, I yield the balance of our time to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, this started out as a bipartisan bill designed to expand opportunities and I hope it ends up that way if we defeat this divisive amendment.

Mr. Chairman, this language either means nothing because Title VI already prohibits discrimination or it is different from Title VI and that will take years of litigation to interpret what it means. There is one interesting legal point in terms of discrimination on religion. We do not know whether that would mean that religious schools could or could not discriminate or prefer those of its religion.

But there is one thing that we know, and that is we could not remedy notorious discrimination if this amendment would pass. Whatever it means, it would attack valuable programs designed to address woeful underrepresentation of minorities in certain fields. There are only a handful of minority Ph.D.'s granted in science every year and outreach initiatives to address this woeful underrepresentation aimed at minorities, such as the Ronald E. McNair program to encourage minorities to pursue doctorates in science. Those programs would be in jeopardy.

Let us keep opportunity open. I urge Members to defeat this amendment just like we defeated the last amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the unanimous consent agreement, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) will each be recognized for 1½ minutes to wrap up.

The gentleman from Pennsylvania (Mr. GOODLING) is recognized for 90 seconds.

Mr. GOODLING. Mr. Chairman, I yield myself 45 seconds.

Mr. Chairman, I merely want to thank everyone for their patience. I think we are probably completing one of the most important pieces of legislation that we will deal with this year. Millions of Americans, young people and old, who are going to colleges and postsecondary schools will certainly benefit dramatically.

□ 2215

I want to thank members of the staff.

First of all, I want to thank the gentleman from California (Mr. MCKEON) and the gentleman from Michigan (Mr. KILDEE) for their effort to bring this bipartisan legislation before us. I want to thank Vic Klatt, Sally Stroup, George Conant, Sally Lovejoy, Jo Marie St. Martin, Jay Diskey, Pam Davidson, Darcy Phillips, David Evans, Mark Zukerman, and Marshall Grisby for the tremendous job they have done.

Mr. Chairman, I yield 45 seconds to the gentleman from California (Mr. MCKEON), the subcommittee chairman, who worked long and hard to put this legislation together.

Mr. McKEON. Mr. Chairman, I would like to join the gentleman from Pennsylvania (Mr. GOODLING), the chairman, in thanking the members of the staff. He named all of the ones I was going to name. I want to thank all of you, plus my personal staff, Bob Cochran and Karen Weiss, for the great work they have done, for all of you for being patient with us throughout this day.

This has been a real bipartisan effort. The underlying principle in all that we have done has been for students and their parents to see that they get a full, equal opportunity to get a college education. I think that is good for America, and I think we passed a good bill. I want to thank all of my colleagues for working to make this such a good effort.

Mr. KILDEE. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, as we conclude debate on this, I would like to recognize the very hard work of the staff on this legislation over the last 16 months.

On the Republican side, I want to acknowledge the excellent work of Bob Cochran and Karen Weiss, the personal staff of the gentleman from California, and Vic Klatt, Sally Lovejoy, Lynn Selmser, David Frank, D'Arcy Phillips, George Conant, and Pam Davidson of the committee staff.

But most importantly, I want to recognize the absolutely superb efforts of Sally Stroup who spearheaded this work on this legislation. She is a gracious, thoughtful, and very competent staff person. Everyone in this Chamber owes her a great debt of gratitude.

On the Democratic side, I want to express my appreciation to Chris Mansour and Callie Coffman of my own personal staff, and Gail Weiss, Mark Zukerman, Marshall Grigsby, Alex Nock, and Peter Rutledge of the committee staff, as well as Broderick Johnson, the former committee counsel, now at the White House.

Further, while she has moved to the Institute of Museum and Library Services, I also want to thank Margo Huber, who, as a member of the committee staff, did exceptionally fine work in helping formulate this bill.

Perhaps most important, I thank David Evans. For 19 years, David served Senator Pell, on the Senate Education Subcommittee, and I persuaded him over a year ago to come here and work on this important reauthorization bill. He and I have worked closely together, and I value very, very much the contributions he has made and the friendship we have forged.

Finally, we are all grateful for the hard work of Steve Cope in the Legislative Counsel's office, Deb Kalcevic at the Congressional Budget Office, and the staff of the Congressional Research Service, particularly Margot Schenet, Jim Stedman, and Barbara Miles.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to the Campbell amendment. This measure is legal minutia that erodes existing statutes already established to address concerns about discrimination in higher education.

In fact, in many ways, the Campbell amendment mimics Title VI of the Civil Rights Act—which already prohibits institutions of higher education that participate in programs, receiving Federal financial assistance from the Department of Education, from discriminating against students on the basis of race, color, or national origin. As such, discrimination against individual students in the administration of Higher Education Act programs is already forbidden by law.

The Campbell amendment takes an additional step in that it extends this "anti-discrimination" policy to include religion. The need for

this added dimension is rather confusing since there are no programs under the Higher Education Act in which religion is a consideration. Another issue of concern is that this amendment would prohibit religious educational institutions, which participate in Higher Education Act programs, from considering an applicant's religion in admission.

Mr. Chairman, I am very concerned about the nature and purpose of this initiative. It is extremely ambiguous and very confusing. My concerns about the extent of its impact raises questions about institutions that receive Higher Education Act funding will be prohibited from participating in affirmative action at any level where race or religion is an issue, including admissions.

Mr. Chairman, I urge my colleagues to vote "No" on the Campbell "nondiscrimination provision" amendment. This is an obscure measure that serves only to raise more questions and puts current statues at risk.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CAMPBELL).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CAMPBELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 227, not voting 16, as follows:

[Roll No. 134]

AYES—189

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Bartlett
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bono
Brady
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Everett
Fawell
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Northup
Norwood
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—227

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Barton
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Capps
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Morella
Murtha
Nadler
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Redmond
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Watts (OK)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—16

Bateman
Carson
Christensen
Dickey
Doyle
Gonzalez
Hastings (FL)
Hilliard
Largent
McNulty
Neumann
Radanovich
Schaefer, Dan
Shuster
Skaggs
Yates

□ 2236

Mr. ENSIGN and Mr. GIBBONS changed their vote from "aye" to "no."

Messrs. GREENWOOD, SOLOMON, HYDE and UPTON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

Mr. VENTO. Mr. Chairman, I rise today in support of the Higher Education Reauthorization Act. As a longtime advocate of educational opportunities for Americans, I have advocated and fought to ensure that access to quality education and solid job training skills is more than a pipedream for working families. Although there are several facets of this legislation, there are a few issues in particular that I would like to highlight. As we prepare to enter the 21st Century, America needs smart tools, smart technology and most of all a very smart workforce to maintain our competitive edge.

As we approach the turn of the century, it is more important than ever to ensure that students have access to the resources they need to pursue a postsecondary education. I worked my own way through college years ago, it was hard than and is more difficult today. I know that today times have changed and without adequate assistance through programs like work study, grants, and loans most students would not be able to complete their college education no matter their willness to work full time as many did in a previous experience. Added to this is the fact that today most entry-level jobs barely pay a living wage, which is not enough anymore to fund today's higher tuition rates, the costs of books, and living expenses. This legislation could and should ensure that monetary aid would be available to keep the doors open to all students who otherwise would not have the resources to fund higher education opportunities.

The Pell grants increases and special loan programs included in this measure H.R. 6 are the vehicles which and have demonstrated their effectiveness and help to meet the need of today and tomorrow's students. Another special aspect to highlight and which I feel is crucial to the competitiveness of our nation is technology training. H.R. 6 speaks specifically to this goal by providing funding for programs designed to promote such initiatives. As technology advances and touches so many areas of our lives—from the workplace to the marketplace to the classroom—it is increasingly imperative that today's teachers receive the training to effectively teach students not only rudimentary computer skills, but how to employ these skills effectively in accessing educational resources.

According to the Education Testing Service Assessment, most teachers have been in the workforce since before the computer age.

Shockingly, 90 percent of new teachers, the majority of whom one might assume have grown up with computers—particularly during their years of higher education—do not feel prepared to use or effectively teach technology skills in their classrooms. Just as a dictionary may not be used as a resource by someone who is unable to read, computers in our classrooms are only useful when teachers are able to understand how they work and confidently apply this know-how in the classroom. The Higher Education Act recognizes this problem and provides for programs designed to implement the integration of technology into teaching and learning. I'm pleased to have helped initiate this policy in legislation which I've co-sponsored this session.

I specifically voice my opposition to the Riggs amendment which attempts to eliminate affirmative action this amendment over reaches and would bar any legal initiative to achieve diversity in our higher education institutions, its wrong and ought to be defeated. The bottom line is that Americans must have education and training they can afford, for the jobs and futures they merit and it must embrace the diversity of four US populace. Without educational opportunities, America's children face a future of lower employment, lower productivity, lower aspirations, and ultimately, a lower standard of living. This is certainly no way to prepare for a new Century. The federal government, prompted by Congress, can and will make a difference in meeting the challenge of change. By supporting higher education, we are investing in people, our nation's most valuable natural resource.

Mr. PAUL. Mr. Chairman, Congress should reject HR 6, the Higher Education Amendments of 1998 because it furthers the federal stranglehold over higher education. Instead of furthering federal control over education, Congress should focus on allowing Americans to devote more of their resources to higher education by dramatically reducing their taxes. There are numerous proposals to do this before this Congress. For example, the Higher Education Affordability and Availability Act (HR 2847), of which I am an original cosponsor, allows taxpayers to deposit up to $5,000 per year in a pre-paid tuition plan without having to pay tax on the interest earned, thus enabling more Americans to afford college. This is just one of the many fine proposals to reduce the tax burden on Americans so they can afford a higher education for themselves and/or their children. Other good ideas which I have supported are the PASS A+ accounts for higher education included in last year's budget, and the administration's HOPE scholarship proposal, of which I was amongst the few members of the majority to champion. Although the various plans I have supported differ in detail, they all share one crucial element. Each allows individuals the freedom to spend their own money on higher education rather than forcing taxpayers to rely on Washington to return to them some percentage of their tax dollars to spend as bureaucrats see fit.

Federal control inevitably accompanies federal funding because politicians cannot exist imposing their preferred solutions for perceived ''problems'' on institutions dependent upon taxpayer dollars. The prophetic soundness of those who spoke out against the creation of federal higher education programs in the 1960s because they would lead to federal control of higher education is demonstrated by numerous provisions in HR 6. Clearly, federal funding is being used as an excuse to tighten the federal noose around both higher and elementary education.

Federal spending, and thus federal control, are dramatically increased by HR 6. The entire bill has been scored as costing approximately $101 billion dollars over the next five years; an increase of over 10 billion from the levels a Democrat Congress Congress authorize for Higher Education programs in 1991!. Of course, actual spending for these programs may be greater, especially if the country experiences an economic downturn which increases the demand for federally-subsidized student loans.

Mr. Chairman, one particular objectionable feature of the Higher Education Amendments is that this act creates a number of new federal programs, some of which where added to the bill late at night when few members where present to object.

The most objectionable program is ''teacher training.'' The Federal Government has no constitutional authority to dictate, or ''encourage,'' states and localities to adopt certain methods of education. Yet, this Congress is preparing to authorize the federal government to bribe states, with monies the federal government should never have taken from the people in the first place, to adopt teacher training methods favored by a select group of DC-based congressmen and staffers.

As HR 6 was being drafted and marked-up, some Committee members did attempt to protect the interests of the taxpayers by refusing to support authorizing this program unless the spending was offset by cuts in other programs. Unfortunately, some members who might have otherwise opposed this program supported it at the Committee mark-up because of the offset.

While having an offset for the teacher training program is superior to authorizing a new program, at least from an accounting perspective, supporting this program remains unacceptable for two reasons. First of all, just because the program is funded this year by reduced expenditures is no guarantee the same formula will be followed in future years. In fact, given the trend toward ever-higher expenditures in federal education programs, it is likely that the teacher training program will receive new funds over and above any offset contained in its authorizing legislation.

Second, and more importantly, the 10th amendment does not prohibit federal control of education without an offset, it prohibits all programs that centralize education regardless of how they are funded. Savings from defunded education programs should be used for education tax cuts and credits, not poured into new, unconstitutional programs.

Another unconstitutional interference in higher education within HR 6 is the provision creating new features mandates on institutes of higher education regarding the reporting of criminal incidents to the general public. Once again, the federal government is using its funding of higher education to impose unconstitutional mandates on colleges and universities.

Officials of the Texas-New Mexico Association of College and University Police Departments have raised concerns about some of the new requirements in this bill. Two provisions the association finds particularly objectionable are those mandating that campuses report incidents of arson and report students referred to disciplinary action on drug and alcohol charges. These officials are concerned these expanded requirements will lead to the reporting of minor offenses, such as lighting a fire in a trash can or a 19-year-old student caught in his room with a six-pack of beer as campus crimes, thus, distorting the true picture of the criminal activity level occurring as campus.

The association also objects to the requirement that campus make police and security logs available to the general public within two business days as this may not allow for an intelligent interpretation of the impact of the availability of the information and may compromise an investigation, cause the destruction of evidence, or the flight of an accomplice. Furthermore, reporting the general location, date, and time for a crime may identify victims against their will in cases of sexual assault, drug arrests, and burglary investigations. The informed views of those who deal with campus crime on a daily basis should be given their constitutional due rather than dictating to them the speculations of those who sit in Washington and presume to mandate a uniform reporting system for campus crimes.

Another offensive provision of the campus crime reporting section of the bill that has raised concerns in the higher education community is the mandate that any campus disciplinary proceeding alleging criminal misconduct shall be open. This provision may discourage victims, particularly women who have been sexually assaulted, from seeking redress through a campus disciplinary procedures for fear they will be put ''on display.'' For example, in a recent case, a student in Miami University in Ohio explained that she chose to seek redress over a claim of sexual assault ''* * * through the university, rather than the county prosecutor's office, so that she could avoid the publicity and personal discomfort of a prosecution * * *'' Assaulting the privacy rights of victimized students by taking away the option of a campus disciplinary proceeding is not only an unconstitutional mandate but immoral.

This bill also contains a section authorizing special funding for programs in areas of so-called ''national need'' as designated by the Secretary of Education. This is little more than central planning, based on the fallacy that omnipotent ''experts'' can easily determine the correct allocation of education resources. However, basic economies teaches that a bureaucrat in Washington cannot determine ''areas of national need.'' The only way to know this is through the interaction of students, colleges, employers, and consumers operating in a free-market, where individuals can decide what higher education is deserving of expending additional resources as indicated by employer workplace demand.

Mr. Chairman, the Higher Education Amendments of 1998 expand the unconstitutional role of the federal government in education by increasing federal control over higher education, as well as creating a new teacher training program. This bill represents more of the same, old ''Washington knows best'' philosophy that has so damaged American education over the past century. Congress should therefore reject this bill and instead join me in working to defund all unconstitutional programs and free Americans from the destructive tax

and monetary policies of the past few decades, thus making higher education more readily available and more affordable for millions of Americans.

Mrs. MINK of Hawaii. Mr. Chairman, I rise today in support of H.R. 6 which reauthorizes the Higher Education Act of 1965.

Like the G.I. bill which provided a college opportunity to the returning WWII vets, the Higher Education Act has done more to expand post-secondary education than any other factor in our educational system or in society. The decision by the Congress in 1965 to make a college education a national priority has contributed to the economic success of our nation. Literally millions of students have been able to attain a college degree because of the federal grant and student loan programs authorized by the Higher Education Act. Most importantly these programs are targeted to disadvantaged students who would have no alternative means of paying for a college education.

H.R. 6 continues the goal of expanding educational opportunity for all students, it lowers the cost of borrowing under the student loan program, expands early intervention efforts and includes provisions to address the special needs of women students.

The cornerstone of the Higher Education Act is the Pell Grant program which provides up to $3,000 to help low-income students pay for college. The bill continues the commitment to the Pell Grant program by raising the authorized level of the maximum Pell Grant award from $3,000 in the school year 1998–99 to $5,100 by the year 2002.

The agreement reached on the student loan interest rate assures that the cost of borrowing student loans will be greatly reduced for students. The new interest rate will be around 5.83% in 1998 for a student in school and a rate of around 7.43% for a student in repayment. The agreement also assures that financial institutions will continue to participate in the student loan program so that students will have access to student loans through a variety of lenders.

Early intervention is also a key component of this legislation. We all know the benefits of existing programs such as TRIO, which assists at-risk high school students in achieving the academic tools necessary to attend college and providing support services such as tutoring and mentoring once they are in college to assure that they will stay in school.

H.R. 6 includes a strong commitment to the TRIO program by increasing the authorization to $800 million. Currently TRIO programs are funded at $530 million. We now have a goal to fund this program at its full $800 million authorization level, so that we can expand programs to reach those areas that do not have the benefit of TRIO.

We also added an important component to our early intervention efforts in the adoption of the High Hopes program, a Clinton Administration initiative which will fund a variety of early intervention efforts in middle schools in low income areas. This program will help close the gap between college enrollment among higher income families and low income families.

H.R. 6 also includes provisions designed specifically to address the needs of women students. The bill increases the allowance for child care expenses in a student's cost of attendance from $750 to $1,500. This provision recognizes the high cost of child care and the impact it has on the overall resources a parent has to attend school.

In another effort to assist students with young children, the bill authorizes $30 million for a new program to establish child care centers on college campuses. Also, I understand the Chairman of the Committee has agreed to include in his manager's amendment a grants for campus crime prevention. Unfortunately, women on college campuses are victims of violent crimes all to often. It is the responsibility of the institution to assist in making college safe for women. This grant program will assist in that effort.

Of particular concern to the University of Hawaii is the International Education programs in Title VI of this bill. I am pleased we were able to work out a compromise on the issue of including both the International Education and Graduate Education programs in the same Title. The International Programs appear in a separate Part to make clear that there is no intention of consolidation of these programs. International education plays an increasingly important role in our society and we must prepare our students to work in a global society.

Though I am in support of this bill, there are provisions that cause grave concern—specifically the elimination of the Patricia Roberts Harris Fellowship which is designed to give women and minorities with significant financial need opportunities in graduate education, particularly in the fields of study that women and minorities have traditionally been under represented such as the engineering and sciences.

Although the committee intends this program to be consolidated in the Graduate Assistance Areas of National Need or GAANN program, I note that the GAANN program as amended by this bill has no component which assists women and minorities in fields in which they are under represented. The GAANN program if focused on provided assistance to those individuals who pursue fields of study in which there is a national need for more students. It has no focus on women or minority students. This is something I hope we can work out in conference.

Mr. Chairman, this bill moves us forward in expanding educational opportunities for our students. There has been much effort to make this a bi-partisan bill that everyone can be proud of. I urge my colleagues to support the reauthorization of the Higher Education Act.

Mr. BLUMENAUER. Mr. Chairman, I rise today in support of the Higher Education Amendments of 1998, H.R. 6, and the tremendous help this bill will provide to our nation's higher education system. The students of today will be the leaders of tomorrow, and we owe it to them to provide the best possible opportunities for furthering their education beyond high school. In the global economy of today, our children will need more and better skills to compete with their counterparts from around the world. Congress can significantly help this effort by providing low-cost loans, more scholarship opportunities, and programs that encourage partnerships among all levels of government and educational institutions.

There are a few provisions in H.R. 6 I would like to mention specifically that relate to the third district of Oregon which I represent. First is the Urban Community Service Grant program. Under this program, funds are made available to institutions to help link the assets of institutions such as Portland State University, attended by many of my constituents, to the needs of urban communities. This program is the only one in the Department of Education that speaks directly to urban institutions and has made a real difference for those institutions throughout the country.

PSU's project is community-based and focuses on urban ecosystems. It serves more than 1,000 schoolchildren and demonstrates that learning the basics about mathematics, science, and social studies can involve ''real work'' experiences through community service learning. In this project, curriculum topics arise from real issues identified by people in the community. As a result, students perceive their classroom experiences as relevant and are more motivated to participate in educational activities.

Some examples of the work students performed include:

Building and monitoring bird boxes for the Oregon Department of Fish and Wildlife;

Discussing Portland's infamous combined sewage overflow problem with residents and disconnection of downspouts to help alleviate the problem; and

Planting and maintaining a butterfly and bird garden.

Parents, the business community, local government, and nonprofit organizations are involved in and contribute to the program's success. Volunteers work with students in an urban ecosystems environment to apply the fundamentals of science and math to projects that make a difference to the community. This program is unique because it addresses middle school children—those who are at an age when they will either succeed or fail in school—and their families.

Second, I strongly support the Federal Financial aid provisions in the bill. I am pleased the bill ''fixes'' the independent student eligibility for Pell Grant issue. Last year's revisions to the tax code made one thing clear—access to higher education is key to the nation's ability to maintain economic competitiveness. Even more needs to be done to encourage those without financial resources to attend college. As Oregon's primary urban university, Portland State University serves many students who are independent or who have little or no family resources for a college education. At PSU, Federal financial aid means access. About 8,000 of our students receive financial aid, that's more than half of the student population. Clearly, more financial aid will mean more students will attend college.

I also support the bill's position on lowering the interest rate on Student loans. PSU students are increasing their indebtedness to get a college degree. Since 1986–87, student borrowing at PSU has increased from $7.7 million to $43.9 million. This is due to a number of factors—the cost of education has risen, funding for grants has not keep pace with inflation, and loans are now available primarily to middle and upper income students. Although loans are made available to families who don't have savings or other resources for higher education, soaring amounts of debt are still placed on our students. The high level of indebtedness now associated with attending college is of concern to both myself and my constituents.

I also support continued funding of the State student Incentive Grants (SSIG) program. This

program is important because it provides needed financial aid dollars to low- and working class students and it leverages state funds. While the Federal SSIG funds have declined, the Federal match is needed to help states maintain their commitment to providing state aid for students. At a time when states are facing tight budgets, the Federal match has prevented cuts in the states' share of financial aid. It has often made the difference to state legislatures around the country looking for ways to trim budgets.

However, I am concerned about any provision added to the bill which would have the federal government interfere with the ability of colleges and universities to choose students as they see fit, regardless of their racial or ethnic heritage. The Congress should take every precaution to not interfere into policies of this nature. Admissions policies that take into account racial, ethnic and gender actors have widely been recognized as constitutional by the Supreme Court, and should not be subject to further Congressional meddling. I am hopeful this bill is passed without such harmful provisions.

Mr. Chairman, this bill will go a long way towards addressing many students' needs in their pursuit of a college degree. It is the least we can do to prepare our children for the demands they will face in the real world. I urge my colleagues to support H.R. 6, and hope for the bill's speedy passage by the House.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GILCHREST) having assumed the chair, Mr. GUTKNECHT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, pursuant to House Resolution 411, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 4, not voting 14, as follows:

[Roll No. 135]

YEAS—414

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—4

Campbell
Crane
Paul
Schaffer, Bob

NOT VOTING—14

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
Lewis (CA)
McNulty
Neumann
Radanovich
Schaefer, Dan
Shuster
Skaggs
Yates

□ 2255

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 6, HIGHER EDUCATION AMENDMENTS OF 1998

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 6, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 6.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore. Without objection, the Chair announces the Speaker's appointment of the following conferees on H.R. 2400.

As additional conferees from the Committee on the Budget, for consideration of title VII and title X of the House bill and modifications committed to conference:

Messrs. PARKER, RADANOVICH, and SPRATT.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

PERSONAL EXPLANATION

Mr. DAVIS of Illinois. Mr. Speaker, I was unavoidably detained in my district yesterday, May 5, due to official business. As a result, I missed rollcall vote numbers 122 through 126.

However, had I been present, I would have voted no on rollcall 122; aye on rollcall number 123; aye on rollcall number 124; aye on rollcall number 125; and aye on rollcall number 126.

□ 2300

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. GILCHREST). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

(Mr. RUSH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ISTOOK) is recognized for 5 minutes.

(Mr. ISTOOK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

AFFIRMATIVE ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is important after the conclusion of today's debate on the Higher Education Act and specifically the debate that we had on both the Riggs and Campbell amendment to assess where we are and what that means. I am very pleased that the debate was not acrimonious but it was truthful. It expresses, I think, the overall commitment of this House to what really is equal opportunity and particularly in higher education.

Many times as we have debated the questions of affirmative action and equal opportunity, many voices would raise in citation of the words of Dr. Martin Luther King, that we should be judged not by the color of our skin but by the character within. Those words distort the value and the purpose of affirmative action and equal opportunity. For there is no doubt that we all strive to an even playing field. That even playing field has not arrived, for those who would argue that an amendment that would eliminate the ability to outreach and affirmatively act upon recruiting and soliciting minority students and women to institutions of higher learning deny the existence of past discrimination and existing discrimination.

The Riggs amendment and the Campbell amendment were likewise misdirected and distorted. My good colleague from California rose to the floor of the House and cited an example of the SAT scores. He started with a score in an Asian student that may have had a score of 760. He cited the score of a white student, an Hispanic student, and he concluded with a score of an African-American student of 510 on the SATs. With that pronouncement, he proceeded to discuss the fact of why there should be any extra special effort to ensure that those students who did not have the higher scores be able to attend institutions of higher learning. I have an answer for him. What is the high moral ground? What does this country stand for? Does it suggest that students who do not have the money to pay to go to institutions of higher learning should become or remain uneducated, foolish, untrainable, the door of opportunity should be closed? Does it mean those students who live in rural America who might have a hard time getting transportation to institutions of higher learning, the door should be closed? In every instance, we reach out to try to help those who need the extra help, to get the promise of what America stands for. Both the Riggs amendment and the Campbell amendment missed the boat on what is right and what is the high moral ground.

We will continue to have these debates. We have an election in Seattle. We recently had an election in Houston, Texas where they were attempting to eliminate the affirmative action provisions in minority and small and women-owned businesses. We have had one in California. Unfortunately it was, I think, misconstrued by the voters and Proposition 209 passed. But the tragedy of Proposition 209 is evidenced by the sizable diminishing of those students from Hispanic and African-American backgrounds going to institutions of higher learning. We defeated Proposition A in Houston recognizing that once you understood what affirmative action actually stands for, affirmatively acting, affirmatively reaching out, affirmatively ensuring equal opportunity, that most Americans will join hands united in recognizing that this is the right way to go. I, too, join in the words of Dr. Martin Luther King. I wish for a society in which all of us are judged by the content of our character. But I do not believe that because you come from a Hispanic background, an African-American background, because you are a woman, because you come from a rural background and you need an extra measure of help that that in any way diminishes your character, suggests that you are not being judged by your character but in fact the color of your skin is negative and so you are being reached out to because of something negative rather than something positive.

Mr. Speaker, I simply hope that time after time these kinds of amendments reach the floor of the House, we will recognize that the right way to go is to some day to reach a point in America where there is no discrimination against Native Americans and Hispanics, African-American, Asians, whites, women, but we have not reached that point.

These amendments take away from what the full promise of this country stands for. I will always stand against them, I will argue with my colleagues and respect them for their difference, but each day I will demand that this House do the right thing.

As I do that, Mr. Speaker, let me also simply conclude by saying I want to join very briefly the gentleman from Michigan (Mr. CONYERS) in his opposition and concern finally for what I think have been misguided efforts and directions in investigations dealing with both Webb Hubbell, Ms. McDougal and the whole proceedings investigating the President.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

(Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

(Mr. GREEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BENTSEN) is recognized for 5 minutes.

(Mr. BENTSEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CHANGES IN MEDICARE DECIMATE KANSAS HOME HEALTH CARE PROVIDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I rise this evening to address an issue of critical importance to people of Kansas and really the entire country. Several provisions buried in last year's Medicare bill are decimating home health care providers in Kansas and jeopardizing access to critical health care services to the sick and elderly in rural America.

Last year, in the effort to reduce spending, Congress made three crippling changes to Medicare reimbursement rates and regulations for home health care providers. First, the new interim payment system has slashed reimbursements to all agencies and is particularly discriminatory to agencies who have historically been the lowest cost, most efficient providers.

Second, the unrealistic requirements that all agencies, regardless of size, obtain $50,000 surety bond has been devastating. These bonds are expensive for many agencies and generally unavailable in most parts of the country. Even the Small Business Administration has acknowledged that there are great difficulties that many small agencies are experiencing in obtaining these bonds.

Finally, the loss of venipuncture reimbursement has added to the financial difficulties resulting in the closure of many agencies across the country, including Kansas. In our efforts to curtail fraud and wasteful spending, Congress went too far. Surely Congress did not intend to close down reputable and efficient providers of home health care services.

In rural Kansas, health care is not just a quality of life issue. It is a matter of survival. A home health care agency in a rural community is often the sole provider of services, the critical link between hospitals and independent personal recovery. These agencies give seniors the opportunity to recover in their own homes with their own families and save the Medicare program costly hospital or nursing home stays following each illness or injury. Rural providers and their patients are especially hurt by cuts in payments due to the high cost of providing these services in a rural setting. These cuts threaten to leave seniors without adequate care and without independence of home care.

I wholeheartedly support the goal of reforming Medicare. Unfortunately, the budget agreement penalized the very efficiency that Congress should be encouraging. Last year I was one of only a handful of Members to vote against the Medicare budget provisions, not because I opposed meaningful reforms in the Medicare program, but because, among other reasons, I opposed a payment system which rewarded waste and punished efficiency.

I urge my colleagues in the House to join me in calling for an immediate review of the home health care provisions in the Balanced Budget Act and to take action necessary to remedy this crisis. Yesterday legislation was introduced in the Senate to limit the surety bond requirements to new agencies while strengthening protection and oversight for fraud, waste and abuse, and legislation has been introduced in both Houses to modify the interim payment system and provide needed relief for home health care providers.

Mr. Speaker, these are the real reforms that the Medicare home health care program desperately needs. I urge my colleagues to reconsider this issue.

□ 2310

CHAIRMAN BURTON APOLOGIZES FOR HANDLING OF HUBBELL TAPES BUT REFUSES TO ADMIT ERROR

The SPEAKER pro tempore (Mr. GILCHREST). Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, today we have learned that the Chairman of the House Committee on Government Reform and Oversight has fired his chief investigator and apologized to his fellow Republicans for any embarrassment caused by his actions in releasing distorted summaries of telephone conversations between Mr. Hubbell and his wife.

If the chairman now recognizes that the actions taken by his committee were wrong, the gentleman from Indiana (Mr. BURTON) also owes an apology to Mr. and Mrs. Hubbell as well as the President and the First Lady. The release of those summaries as well as the tapes themselves represents something that may be truly unprecedented in the House of Representatives: the elevation of partisanship over the sanctity of the privacy of conversations between a husband and wife.

This is such a profound affront to most people's sensibilities and the values that we hold dear that it raises new questions about whether the gentleman from Indiana (Mr. BURTON) can or ought to continue to lead that committee's investigation into alleged campaign finance violations.

Chairman BURTON's continuing release of the private telephone conversations of Mr. Hubbell, including conversations with his wife and his attorney, appear to represent a serious abuse of government power intended to humiliate Mr. Hubbell because of his prior association with the Clinton administration.

Have we really reached the point where we think it is appropriate to publicly broadcast intimate conversations, most of which have nothing to do with the allegations of campaign finance violations, between a man and his wife? If we are concerned about family values, Congress should support the privacy of marital relationships, not make them public.

Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. I would say to the gentleman from Michigan, we know that in prior Congresses you had the occasion to chair this committee of the House. Can you tell us from your personal experience of having served in the Congress more than 30 years any recollection on your part of the conduct of this particular chairman of this committee in the investigation of such a serious matter?

Mr. CONYERS. Well, we do not have enough time to discuss the conduct of the chairman of the committee, but I can tell you that never in any committee can I recall to the Members of the body that we went into privacy and violated the spirit of privacy laws in the way that they have been done now. And there was a curious coincidence between the release of information from the special prosecutor and the release of these tapes. The chairman, a friend, his own chief counsel, advised him not to release the tapes, but he did so anyway. The Speaker of the House of Representatives publicly stated that a third party should screen the tapes for privacy issues before further releases were made. What did the committee do? It continued to release more tapes.

So almost daily, the impression continues to grow that the gentleman from Indiana (Mr. BURTON) or his committee is simply out of control. If the chairman's goal is simply to get at the truth, then there was no need to doctor the tapes.

Considering all of this, along with the chairman's recent public statement that he was after, quote-unquote, the President, President Clinton, how can the important investigative work of the committee lead to any findings that will be accepted as legitimate by the public?

I would appeal to the higher instincts of the gentleman from Indiana (Mr. BURTON) to apologize to the Hubbells and to the President and to the First Lady.

HIGHLIGHTS OF THE HIGHER EDUCATION AMENDMENTS OF 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to discuss the very important legislation which was just

adopted in the House, speaking of the Higher Education Amendments of 1998 which we passed this evening. This will reverse the current trend where it has been more difficult for many students to get into college because of financial reasons, and this is because college will be more affordable under our new amendments. It will simplify the student aid system and improve academic quality. In doing so, our bill enhances the freedom of Americans to live the American dream, rewards Americans who are willing to take responsibility for themselves in the future and restores accountability to the Nation's higher education programs.

Higher education amendments make college more affordable by rescuing the student loan program and, in turn, providing students with the lowest interest rate in 17 years. Specifically, this provision ensures that private banks stay in the student loan program. Without it the student loan program would eventually collapse and college students would be left without the borrowing power which they need to finance their education.

The higher ed bill makes college more affordable for students from disadvantaged backgrounds. It expands the Pell grant program which provides higher education vouchers for needy students and improves campus-based aid programs like the supplemental education opportunity grants, work-study and the Perkins loans, and strengthens international and graduate education.

Mr. Speaker, it also brings much needed reforms to the TRIO program to help disadvantaged children prepare for college while still in their teens. Specifically the bill increases the maximum allowable Pell grant for students from the current 3,000 to $4,500 per student for academic year 1999, and the grants gradually increase to 5,300 in the year 2003 to 2004.

Furthermore, the bill acknowledges sacrifices rendered by making college more affordable for those who serve in the U.S. Armed forces. Specifically it exempts veterans' benefits from being counted against students when they apply for financial aid.

This legislation holds colleges and universities accountable for tuition increases. Under the bill, colleges and universities are required to develop clear standards for reporting college costs and prices for both undergraduate and graduate education.

It also simplifies the student aid system. The Higher Education Amendments of 1998, which we just voted upon, offers students a way out by making the student aid process more user-friendly, incorporating sales management principles into student aid programs, and cutting red tape and bureaucracy.

One of the most important parts of this bill, Mr. Speaker, was the Foley amendment which requires that crime statistics be available to those who apply to colleges. I have in my own district a heroine, Connie Cleary, who has been working for many years to make sure that colleges report such security information. Her daughter was tragically murdered on a college campus. She and her husband have dedicated their lives to making sure that every college parent and student knows exactly what the security situation is at each university, so that together we can make our campuses safer and to make sure that individuals who attend schools have every piece of knowledge they should know about the campus in making an informed choice.

This bill is a positive bill. I believe it is going to help more students attend college and be able to financially afford to achieve their dream and then go on to get the job which best suits the academic challenges they have met.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

(Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

□ 2320

FAULTY PROCEDURES OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. KANJORSKI) is recognized for 5 minutes.

Mr. KANJORSKI. Mr. Speaker, I know the hour is late. It is a pleasure to follow my good friend from Michigan (Mr. CONYERS), the former chairman of the House Operations Committee, now the Committee on Government Reform and Oversight of the House of Representatives.

On the same issue that the gentleman from Michigan (Mr. CONYERS) recently addressed the House on, I would just like to spell out some of my thoughts in regards to the exercise of the authority of the committee and the chairing of the committee, particularly in the last several months.

Mr. Speaker, the House of Representatives, in passing the resolution directing the Committee on Government Reform and Oversight to examine the election practices in the presidential and congressional elections of 1996, invested in the Committee on Government Reform and Oversight a very unusual power and instruction. I dare say, although this was a political issue from the standpoint it involved political campaigns and supposedly both parties that were engaged in the campaign of 1996, my observations were that both on the majority and the minority side, originally there was some expression of intent to do a serious, credible investigation and examination; not a persecution or a politically motivated investigation, but something that would give insight to the Members of this House and to the American people of a very serious problem, and that problem is the prostitution of the American political system and campaigns, which is fast overwhelming this Nation as experienced in 1996.

As we met to organize and to identify our mission, it seemed that very early on many of us on the minority side of the committee were fast realizing that there was an extraordinary power, the power of subpoena that was going to be vested in the Chairman without the need for clearing a subpoena through the ranking member or to going to the full committee that would normally have some input in the exercise of the issuance of a subpoena. I thought that was strange, and to my own mind and to others I remarked at the time that as a result of this unusual power being vested in the chairman, he would become the most powerful American citizen in the United States. No other individual in the United States could, by merely signing a subpoena, command the presence, the records, the examination of all of the personal papers of any American citizen.

We cautioned the chairman that it may be wise to carry on prior practices, both of the Committee of Oversight and Investigation, and the experiences of the Watergate committee, the Thompson committee in the Senate, and that was that when an individual is going to be issued a subpoena, it should come to the full committee to be disclosed, or at least to the ranking member so that a discussion can be had; and when agreement was reached, the subpoena would issue. If there was disagreement, it would come to the full committee and the full committee would cast a vote with the majority of the committee controlling the outcome as to whether the subpoena should issue.

Instead of doing that, the chairman received, without limitation, by vote of the majority of the committee, that he in his own right, without consultation and without consent from the committee, and without contest by the rest of the committee, could issue at will subpoenas to many citizens in the country.

Mr. Speaker, I think nearly 1,000 such subpoenas were issued. Some of them were so grossly and improperly issued that because the surname of the individual who was named in the subpoena was of Chinese American origin, there was a professor at the University of Georgetown that had his bank records seized, even though he had nothing to do with the campaign and was, in fact, an entirely different person. We called that very strongly to

the attention of the chairman and he dismissed that.

About 5 months ago, we had a vote to immunize six witnesses before the committee. At that time we were assured that they would offer testimony that was necessary to the committee. In fact, that immunization of those witnesses allowed an individual to escape prosecution by getting immunity from that committee

ROLE OF PAKISTAN IN THE TRANSFER AND PROLIFERATION OF NUCLEAR WEAPONS AND DELIVERY SYSTEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I want to stress my concern this evening over the continued role of Pakistan in the transfer and proliferation of nuclear weapons and delivery systems.

Last month, the U.S. State Department determined that sanctions should be imposed on Pakistan pursuant to the Arms Export Control Act, and this decision comes in the wake of a determination that entities in Pakistan and North Korea have engaged in missile technology proliferation activities.

According to the notice published in the Federal Register on May 4 of this year, Khan Research Laboratories in Pakistan and the North Korean Mining Development Trading Corporation are subject to sanctions, including denial of export licenses, a ban on U.S. Government contracts with these entities, and a ban on importation to the U.S. of products produced by these two entities. The sanctions are in effect for 2 years.

Now, although these sanctions seem relatively modest, I still want to applaud the Clinton administration for imposing the sanctions on these companies. I hope that enforcement efforts against these and other firms involved in the proliferation of missile technology will remain strong.

As if this recent disclosure, though, about Pakistani nuclear missile technology with North Korea was not shocking enough, there are reports this week that the International Atomic Energy Agency, or the IAEA, is investigating whether a leading Pakistani scientist offered Iraq plans for nuclear weapons. The information, first reported in Newsweek Magazine, has been confirmed by the IAEA. According to the report, in October of 1990, prior to the Persian Gulf War, but after the Iraqi invasion of Kuwait, while our troops were massing in Saudi Arabia under Operation Dessert Shield, a memorandum from Iraqi's intelligence service to its nuclear weapons directorate mentioned that Abdul Qadeer Khan, the Pakistani scientist, offered help to Iraq to ''manufacture a nuclear weapon.'' The document was among those turned over by Iraq after the 1995 defection of Saddam Hussein's son-in-law, Lieutenant General Hussein Kamel, who ran Iraq's secret weapons program.

The Pakistani Government has denied the report and the IAEA has not yet made any determination, but this report is part of a very troubling pattern involving Pakistan in efforts to obtain nuclear weapons and delivery systems or to share this technology with unstable regimes.

Recently, Pakistan tested a new missile known as the Ghauri, a missile with a range of 950 miles, sufficient to pose significant security threats to India and to launch a new round in the south Asian arms race. I am pleased that the recently elected Government of India has demonstrated considerable restraint in light of this threatening new development.

While I welcome the sanctions against North Korea, I remain very concerned that China is also known to have transferred nuclear technology to Pakistan. Our administration has certified that it will allow transfers of nuclear technology to China, a move I continue to strongly oppose.

Mr. Speaker, for years many of our top diplomatic and national security officials have advocated a policy of appeasement of Pakistan, citing that country's strategic location. But I think the time has long since passed for us to reassess our relationship with Pakistan. The two developments I cite today are only the latest developments. North Korea, the last bastion of Stalinism, is also one of the most potentially dangerous nations on Earth and the U.S. has been trying to pursue policies to lessen the threat of nuclear proliferation from North Korea, but now we see that Pakistan is cooperating with North Korea on missile technology.

Mr. Speaker, we do not need to be reminded of American concerns over Saddam's regime in Iraq. Now credible reports have surfaced suggesting the possibility of nuclear cooperation between Iraq and a top Pakistani scientist. Concerns about Pakistani nuclear weapons proliferation efforts have been a concern for U.S. policymakers for more than a decade. In 1985 the Congress amended the Foreign Assistance Act to prohibit all U.S. aid to Pakistan if the President failed to certify that Pakistan did not have nuclear explosive devices.

□ 2330

This is known as the Pressler amendment. And it was invoked in 1990 by President Bush when it became impossible to make such a certification. The law has been in force since, but we have seen ongoing efforts to weaken the Pressler amendment, including a provision in the fiscal year 1998 Foreign Operations Appropriations Bill that carves out certain exemptions to the law.

Several years ago, $370 million worth of U.S. conventional weapons to Pakistan, which had been tied up in the pipeline since the Pressler amendment was invoked, was shipped to Pakistan. There is also the specter of U.S. F–16s, the delivery of which were also held up by the Pressler amendment, being delivered to Pakistan.

Mr. Speaker, in conclusion, I want to say that Pakistan has continued to take actions that destabilize the region and the world. Providing and obtaining weapons and nuclear technology from authoritarian, often unstable regimes, is a pattern of Pakistani policy that is unacceptable to U.S. interests and the goal of stability in Asia.

Pakistan is a country that faces severe development problems and really they should not be involved in this continued proliferation of nuclear weapons.

Its people would be much better served if their leaders focused on growing the economy, promoting trade and investment and fostering democracy. U.S. policy needs to be much stronger in terms of discouraging the continued trend toward destabilization and weapons proliferation that the Pakistani government continues to engage in.

ACTIONS TAKEN BY THE BURTON COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. BARRETT) is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, the hour is late. There has been much fanfare this week in Washington over the Burton committee, and the actions that were taken by the chairman of that committee. I just want to reflect on those actions and reflect on that committee which I have served on for the last 5½ years.

My first two years, I served under the gentleman from Michigan (Mr. CONYERS), who is here with us tonight and who has spoken about this issue earlier. For two years Mr. CLINGER headed the committee and the gentleman from Indiana (Mr. BURTON) has headed this committee for the last year and a half.

Earlier this week and late last week there was much criticism of the 19 Democrats on that committee who had voted against immunity. I was one of those Democrats and I am 100 percent comfortable with my vote. There are many times when it is difficult when legislators have to think about whether they are doing the right thing or the wrong thing, and believe it or not, legislators sometimes actually think about this and they are concerned about whether they are doing the right thing or the wrong thing.

I am very confident that what we did on that committee was the right thing to do. And I just want to take a minute to explain the concerns that I and other Members of that committee have had.

First, I have to go back a year and a half when the committee was formed and started this investigation. We argued that there were problems, and that there are problems, but those

problems did not occur exclusively on the Democratic side of the aisle and if we were going to have a true investigation, it should be an investigation in the fund-raising practices of both the Democrats and the Republicans.

We were realistic because we realized that the gentleman from Indiana (Mr. BURTON), who had a reputation of being highly partisan, would not go along with that. And we recognized that he was the man who held the gavel and that he could do what he wanted, so we had to live with that. And I understand that and I accept that.

But I expected and I think that the other committee members expected the one thing that is imperative for any committee chairman in this building, and that is that the person is fair. And that is where this committee has failed miserably because I do not think that the chairman or the committee have run a fair investigation.

We have had other complaints over the last year and a half, but time and time again the chairman said, well, this is the way that I am going to run the committee, and basically squashed the complaints of the minority. Again, we lived with that because we understand the rules.

But it was two weeks ago when the chairman made a statement in his home town that was the straw that broke this camel's back, because he used a phrase in describing the President that I frankly am not comfortable in mentioning in public. And he said, ''That is why I am out to get the President.''

Now, when someone is a member of the committee and walks into that committee room and knows that the chairman's goal is to get the President, they lose all belief in the system that he is running because he has basically publicly said that he is not interested in running an investigation to look for truth. What he is interested in is getting the President.

Back in October before he made those statements, I and every other Member of that committee, every other Democrat on that committee, had voted for immunity for several witnesses. As it turned out, one of those witnesses should not have received immunity because of other legal problems that he had. But we went along with the committee chairman because we felt that we had to be acting in good faith and we had to act fairly.

But when the committee chairman says that he is out to get the President, from the perspective of this Member all the credibility of that committee is gone. It is impossible for me to have confidence in this committee, when I know that the goal of this committee chairman is to get the President.

It is not an attempt to find the truth, it is not an attempt to be fair, it is not an attempt to listen to all Members, and I think what we have seen with some of the committee staff reflects that.

Last year one of the leading employees on that committee left because of the tactics of the committee. As was mentioned earlier, the head legal counsel of the committee earlier this week advised Chairman BURTON not to release the tapes, the Hubbell tapes and he did. I respect Mr. Bennett, who is the lead counsel, and I think he was trying to do the right thing.

But any doubts that anyone could have over whether we did the right thing in voting against immunity I think had to be really put to the side when we talk about the actions that took place this last weekend. When Chairman BURTON released portions of tapes and only those portions that tended to incriminate the President or tried to incriminate the President, but did not release portions of the tapes that would have showed the other side of the story, he showed not only to the committee members, not only to the members of this body, but he showed to the entire American public that this is not a search for the truth because if it were a search for the truth he would have released all relevant parts of those telephone conversations. He would not have excluded those portions of the conversations that tended to exonerate the President. But again that was not the purpose and that has never been the purpose of this committee, and that is why I feel comfortable with what we are doing.

RELIGIOUS FREEDOM THREATENED BY PROPOSED CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas (Mr. EDWARDS) is recognized for half the time between now and midnight as the designee of the minority leader.

Mr. EDWARDS. Mr. Speaker, I am here tonight to discuss an issue that is of critical importance to our Nation and to every American family. The issue is religious freedom. Specifically, I want to comment on Federal legislation that I believe will do great damage to our Bill of Rights and to the cause of religious liberty.

The gentleman from Oklahoma (Mr. ISTOOK) has introduced a constitutional amendment that, if passed into law, would for the first time in our Nation's history amend our cherished Bill of Rights, which has for over 200 years protected Americans' religious, political and individual rights.

The House could vote on this amendment as early as next month. The gentleman from Oklahoma has mislabeled his work the Religious Freedom Amendment. More appropriately, it should be called the Religious Freedom Destruction Amendment.

That is why so many religious organizations such as the Baptist Joint Committee, the American Jewish Congress and the United Methodist Church are strongly opposing the Istook amendment. In fact, these and many other religious organizations and education groups, known as the Coalition to Preserve Religious Liberty, are opposing the Istook amendment because it will harm religious freedom in America.

In my opinion, Mr. Speaker, the Istook amendment is the worst piece of legislation that I have seen in 15 years in public office. It is dangerous because it threatens our core religious rights and literally tears down its 200-year-old wall that our Founding Fathers built to protect religion from intrusion by government.

That is why I have been active and will continue to be active in the bipartisan coalition of House Members and religious leaders to defeat this ill-designed measure.

Mr. Speaker, the Istook amendment would allow satanic prayers, it would allow animal sacrifices to be performed in public schoolrooms, even in elementary schools with small children. It would step on the rights of religious minorities and allow government facilities to become billboards for religious cults.

Mr. Speaker, America already has a religious freedom amendment. It is called the First Amendment to the U.S. Constitution. It is the first pillar of the Bill of Rights. It is the sacred foundation of all our freedoms.

The first amendment begins with these cherished words: Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

For over two centuries that simple but profound statement has been the guardian of religious liberty, which is perhaps the greatest single contribution of the American experiment in democracy.

□ 1140

To tamper with the First Amendment of our Bill of Rights has profound implications. In the name of furthering religion, the Istook amendment would harm religion. In the name of protecting religious liberty, it would damage religious freedom.

With no disrespect intended, if I must choose between Madison, Jefferson, and our Founding Fathers versus the gentleman from Oklahoma (Mr. ISTOOK) on the issue of protecting our religious liberty, I shall stand with Madison, with Jefferson, and our Founding Fathers. I shall stand in the defense of our Bill of Rights.

Mr. Speaker, if history has taught us nothing else, it has taught us that the best way to ruin religion is to politicize it. Our Founding Fathers did not mention God in our Constitution, not out of disrespect, but out of total reverence. It is that same sense of reverence that should move us in this House to protect the First Amendment, not dismantle it.

Some have suggested that the Istook amendment is necessary because they allege that ''God has been taken out of public places and schoolhouses.'' I

would suggest those people must not share my belief that no human has the power to remove an all-powerful ever-present God from any place on this Earth.

The fact is that there is no law in America that prohibits all prayers in our school. It has been said that ''as long as there are math tests, there will be prayers in school.'' I agree. Under present law, schoolchildren may pray silently in school or even out loud, as long as they do not disturb the class work of others or participate in government-sanctioned prayer.

Children can say grace over their school lunches and, if they wish, pray around the flagpole before and after school. In fact, before and after school, prayer groups have been established at hundreds of schools all across America, and these numbers are increasing every day.

The April 27 copy of Time Magazine of this year documents that voluntary prayer is alive and well in American schools. Mr. Speaker, I include that article in the record this evening.

Under the Bill of Rights, as it should be, government resources cannot be used to force religion upon our schoolchildren against the wishes of their parents or against the wishes of the students themselves. What the Bill of Rights does prohibit is government-sponsored prayer, and thank goodness it does.

Our Founding Fathers were wise to separate church and State in the very First Amendment, in the very first words of the Bill of Rights. Religious freedom flourishes in America today precisely because of our wall of separation between church and State.

Islamic fundamentalism seen in the Middle East today is a clear example of how religious rights are trampled upon when government gets involved in religion.

In the weeks ahead, I urge Americans to look beyond the sound bite rhetoric of the Istook amendment and to ask yourselves this question: Should prayer be an individual right or a government program?

Whether I am in office for 2 more years or 10 more years, there never has been and never will be an issue more important to me than protecting religious liberty by defeating the Istook amendment.

Our Bill of Rights is one of the greatest political documents in the history of the world. We cannot allow the gentleman from Oklahoma (Mr. ISTOOK) in sound bite politics or anything else, for that matter, to dismantle it.

First, let me say, too, that there should be an enormous burden of proof placed upon anyone wanting to amend the first words of the First Amendment of our Bill of Rights. The document has not been amended even a single time since its adoption, as I said, over two centuries ago.

There can be no more sacred freedom than the freedom of religion. To tamper with it is a grave undertaking. Frankly, I would have hoped that, prior to any vote on amending the Bill of Rights, this Congress would have had hearings more extensive than any other hearings past or present in the history of the Congress.

Unfortunately, that has not happened. In fact, in 1998, and this is hard to believe, in 1998, there has only been one day of hearings on the Istook amendment to amend the Bill of Rights for the first time in our country's history.

Regardless of one's view on the Istook amendment to have a vote changing the Bill of Rights with less review than Whitewater, campaign finance, or even the Branch Davidian hearings I believe would be an injustice to our Bill of Rights, our Founding Fathers, and all who cherish religious liberty.

It would be tragic to set a precedent in this House that amending the Bill of Rights deserves a less careful review than any other issue before this Congress or any Congress.

As Mr. ISTOOK and his supporters try to meet their burden of proof in arguing that the Bill of Rights is flawed, I hope they will follow the Ninth Commandment.

For example, many proponents of this measure have failed to point out the Ellen Pearson school bus story about a student who was told that she could not read a Bible or bring a Bible on the school bus. They use that as a reason to amend the Bill of Rights, but yet they forget to point out that that problem was solved with one phone call to a school principal in 1989, hardly a reason to amend a bill of rights in 1998.

Mr. Speaker, I believe the American people have the right to know that, under the Istook amendment, seven, eight, nine, ten-year-old schoolchildren could be subjected to satanic prayers in their public schools.

Let me read an example of what our children could be exposed to under the Istook amendment, a satanic prayer:

> I am a born satanist. I am a happy little blob of custard and you cannot nail me to any wall; in fact, I would pull those nails out and aim them at you. Tell me how negative I am. Tell me how I am filled with hate. You are not just stupid. You are wrong. Dracula loved his bride. Dr. Frankenstein loved his monster. My satanic love burns fiercely. It is perfect and uncompromising.

Maybe Mr. ISTOOK would not mind his children being exposed to that satanic prayer and others like it in our public schools, our tax-supported schools, but I would be offended if my two young sons someday are exposed to witchcraft, satanic, or cult prayers in the public schools of Waco, Texas.

Therein lies the unanswered dilemma, the unanswerable, in fact, dilemma of the Istook amendment that allows student-initiated prayer. Either you expose young impressionable children in first and second and third and fourth and fifth grades in public school classrooms to satanic and all other types of prayers from thousands of religious sects and cults, or, on the other hand, you allow 10-year-old children in elementary schools to be the censors and selectors of permissible prayers and the guardians of America's religious rights.

Under the Istook amendment, would 10-year-olds set up prayer selection committees? Would 10-year-olds create prayer appeals committees? Would eight, nine, and 10-year-olds be expected to balance majority views with minority rights as written in our Constitution through the Bill of Rights?

What if one's religion, such as the Santerias, involves animal sacrifices? Would that be allowed, cutting off the heads of chickens in the classrooms as part of a prayer ritual? Which 10-year-olds would be forced or allowed to make that decision in our public schools? Could school administrators be allowed to override that 10-year-old student's decision? If so, where do we then draw the line on government officials reviewing what is and is not a permissible prayer?

Mr. Speaker, until these and hundreds of other questions are answered concerning the Istook amendment, I would suggest we would do well to follow the wisdom of Jefferson, Madison, and our Founding Fathers and protect, not dismantle, the First Amendment to our Bill of Rights.

I think Thomas Jefferson said it better than I could ever imagine when he said this in his letter to the Danbury Baptists, ''Religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or worship; that the legislative powers of government reach actions only and not opinions.''

I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should ''make no law respecting an establishment of religion or prohibiting the free exercise thereof, thus building a wall of separation between church and State.''

Mr. Speaker, I think it is interesting that the other day the gentleman from Oklahoma (Mr. ISTOOK) in supporting his constitutional amendment that, in my opinion would destroy an important part of the Bill of Rights, he suggested that those who were opposing his amendment of the Bill of Rights were ''demagogues''.

Let me suggest, I do not know about whom the gentleman from Oklahoma was suggesting, but if you want to call those demagogues opposing the Istook amendment, you are going to have to include the Baptists, you are going to have to include the Methodists, you are going to have to include Jewish organizations across America, and dozens and dozens of other devout religious organizations who oppose the Istook amendment specifically because of their belief in the reverence of religious liberty in America.

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On April 22, just a few days ago, the Baptist Standard said this: ''The Baptist Standard remains a strict advocate

of the separation of church and State. The first amendment has served us well. We don't need the Religious Freedom Amendment.''

Finally, Mr. Speaker, and there are so many other issues that I hope we can discuss on the floor of this House in the weeks leading up to a vote on the Istook amendment, and I would urge the other side to agree to our recommendation or request that we have an open debate, it seems to me the least we owe, the Congress to the American people, is to have an open dialogue, an open discussion and not just one person's debate in the late hours of the evening, which the other side has been doing recently to discuss the pros and cons of amending the first 16 words of the Bill of Rights.

My concern about this Istook amendment, among many other things, goes to a statement that was made right here on the floor of this House last evening when the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Georgia (Mr. KINGSTON) were discussing this amendment. The gentleman from Oklahoma had listed a series of Federal Court decisions where he disagreed with the judge's opinion that we should, in Thomas Jefferson's words, have separation of church and State in America. The gentleman from Georgia (Mr. KINGSTON) then replied in this way. He said, ''Mr. Speaker, there is no doubt in my mind that there is a special place in hell for a number of Federal court judges, as I am sure there will be for Members of Congress.''

I hope the gentleman from Georgia will come to the floor of this House and explain that statement, because it appears to me that in the context in which it was given, he was suggesting that because certain Federal judges happen to disagree with the gentleman from Oklahoma and the gentleman from Georgia, and happen to agree with Thomas Jefferson and James Madison, that somehow there would be a special place in hell reserved for not only those Federal judges but perhaps for Members of Congress that would agree with our Founding Fathers that the best way to protect religion is to keep government out of religious affairs.

Mr. Speaker, I think it is this kind of thinking that will create divisive debate around this country if the proponents of the Istook amendment would continue to suggest, as they did last night, that if we agree with certain views of church and State issues, somehow we have a special place in heaven; and somehow if we disagree with those people's opinions, somehow we will have a special place in hell reserved for us.

I do not think this country needs that kind of religious divisiveness, and I would suggest, Mr. Speaker, that kind of divisiveness that was part of the debate on the floor of this House last night will be replicated in thousands of schoolhouses across America as we have fights over who gets how many minutes to give which prayer in 1st grade classrooms and 5th grade classrooms and 12th grade classrooms, public classrooms in America's schools.

So for those reasons, Mr. Speaker, and for many, many more that I will have the privilege to discuss in the weeks ahead, I would urge the Members of this Congress and the American people to think carefully before we buy into the sound-bite rhetoric of the Istook constitutional amendment; that we should think seriously before we change what our Founding Fathers carefully designed as the very first 16 words of our Bill of Rights, to defend religious freedom.

I think this will be the most important debate of this Congress, and I hope this Congress will give it serious consideration and ultimately the defeat that it deserves.

[From Time, Apr. 27, 1998]

SPIRITING PRAYER INTO SCHOOL

(By David Van Biema)

On an overcast afternoon, in a modest room in Minneapolis, 23 teenagers are in earnest conversation with one another—and with the Lord. ''Would you pray for my brother so that he can raise money to go [on a preaching trip] to Mexico?'' asks a young woman. ''Our church group is visiting juvenile-detention centers, and some are scared to go,'' explains a boy. ''Pray that God will lay a burden on people's hearts for this.''

''Pray for the food drive,'' says someone.

''There's one teacher goin' psycho because kids are not turning in their homework and stuff. She's thinking of quitting, and she's a real good teacher.''

''We need to pray for all the teachers in the school who aren't Christians,'' comes a voice from the back.

And they do. Clad in wristbands that read W.W.J.D. (''What Would Jesus Do?'') and T shirts that declare UPON THIS ROCK I WILL BUILD MY CHURCH, the kids sing Christian songs, discuss Scripture and work to memorize the week's Bible verse, *John 15: 5* (''I am the vine and you are the branches''). Hours pass. As night falls, the group enjoys one last mass hug and finally leaves its makeshift chapel—room 133 of Patrick Henry High School. Yes, a public high school. If you are between ages 25 and 45, your school days were not like this. In 1963 the Supreme Court issued a landmark ruling banning compulsory prayer in public schools. After that, any worship on school premises, let alone a prayer club, was widely understood as forbidden. But for the past few years, thanks to a subsequent court case, such groups not only have been legal but have become legion.

The clubs' explosive spread coincides with a more radical but so far less successful movement for a complete overturn of the 1963 ruling. On the federal level is the Religious Freedom amendment, a constitutional revision proposed by House Republican Ernest Istook of Oklahoma, which would reinstate full-scale school prayer. It passed the Judiciary Committee, 16 to 11, last month but will probably fare less well when the full House votes in May. One of many local battlefields is Alabama, where last week the state senate passed a bill mandating a daily moment of silence—a response to a 1997 federal ruling voiding an earlier state proschool prayer law. Governor Fob James is expected to sign the bill into law, triggering the inevitable church-state court challenge.

But members of prayer clubs like the one at Patrick Henry High aren't waiting for the conclusion of such epic struggles. They have already brought worship back to public school campuses, although with some state-imposed limitations. Available statistics are approximate, but they suggest that there are clubs in as many as 1 out of every 4 public schools in the country. In some areas the tally is much higher: evangelicals in Minneapolis-St. Paul claim that the vast majority of high schools in the Twin Cities region have a Christian group. Says Benny Proffitt, a Southern Baptist youth-club planter: ''We had no idea in the early '90s that the response would be so great. We believe that if we are to see America's young people come to Christ and America turn around, it's going to happen through our schools, not our churches.'' Once a religious scorched-earth zone, the schoolyard is suddenly fertile ground for both Vine and Branches.

The turnabout culminates a quarter-century of legislative and legal maneuvering. The 1963 Supreme Court decision and its broad-brush enforcement by school administrators infuriated conservative Christians, who gradually developed enough clout to force Congress to make a change. The resulting Equal Access Act of 1984 required any federally funded secondary school to permit religious meetings if the schools allowed other clubs not related to curriculum, such as public-service Key Clubs. The crucial rule was that the prayer clubs had to be voluntary, student-run and not convened during class time.

Early drafts of the act were specifically pro-Christian. Ultimately, however, its argument was stated in pure civil-libertarian terms; prayers that would be coercive if required of all students during class are protected free speech if they are just one more after-school activity. Nevertheless, recalls Marc Stern, a staff lawyer with the American Jewish Congress, ''there was great fear that this would serve the base for very intrusive and aggressive proselytizing.'' Accordingly, Stern's group and other organizations challenged the law—only to see it sustained, 8 to 1, by the Supreme Court in 1990. Bill Clinton apparently agreed with the court. The President remains opposed to compulsory school prayer. But in a July 1995 speech he announced that ''nothing in the First Amendment converts our public schools into religion-free zones or requires all religious expression to be left at the schoolhouse door.'' A month later Clinton had the Department of Education issue a memo to public school superintendents that appeared to expand Equal Access Act protections to include public-address announcements of religious gatherings and meetings at lunchtime and recess.

Evangelicals had already seized the moment. Within a year of the 1990 court decision, prayer clubs bloomed spontaneously on a thousand high school campuses. Fast on their heels came adult organizations dedicated to encouraging more. Proffitt's Tennessee-based organization, First Priority, founded in 1995, coordinates interchurch groups in 162 cities working with clubs in 3,000 schools. The San Diego-based National Network of Youth Ministries has launched ''Challenge 2000,'' which pledges to bring the Christian gospel ''to every kid on every secondary campus in every community in our nation by the year 2000.'' It also promotes a phenomenon called ''See You at the Pole,'' encouraging Christian students countrywide to gather around their school flagpoles on the third Wednesday of each September; last year, 3 million students participated. Adult groups provide club handbooks, workshops for student leaders and ongoing advice. Network of Youth Ministries leader Paul Fleischmann stresses that the resulting clubs are ''adult supported,'' not adult-run. ''If we went away,'' he says, ''they'd still do it.''

The club at Patrick Henry High certainly would. The group was founded two years ago with encouragement but no specific stage managing by local youth pastors. This afternoon its faculty adviser, a math teacher and Evangelical Free Church member named Sara Van Der Werk, sits silently for most of the meeting, although she takes part in the final embrace. The club serves as an emotional bulwark for members dealing with life at a school where two students died last year in off-campus gunfire. Today a club member requests prayer for ''those people who got in that big fight [this morning].'' Another asks the Lord to ''bless the racial-reconciliation stuff.'' (Patrick Henry is multiethnic; the prayer club is overwhelming white.) Just before Easter the group experienced its first First Amendment conflict: whether it could hang posters on all school walls like other non-school-sponsored clubs. Patrick Henry principal Paul McMahan eventually decreed that putting up posters is off limits to everyone, leading to some resentment against the Christians. Nonetheless, McMahan lauds them for ''understanding the boundaries'' between church and state.

In Alabama, the new school-prayer bill attempts to skirt those boundaries. The legislation requires ''a brief period of quiet reflection for not more than 60 seconds with the participation of each pupil in the classroom.'' Although the courts have upheld some moment-of-silence policies, civil libertarians say they have struck down laws featuring pro-prayer supporting language of the sort they discern in Alabama's bill. In the eyes of many church-club planters, such fracases amount to wasted effort. Says Doug Clark, field director of the National Network of Youth ministries: ''Our energy is being poured into what kids can do voluntarily and on their own. That seems to us to be where God is working.''

Reaction to the prayer clubs may depend on which besieged minority one feels part of. In the many areas where Conservative Christians feel looked down on, they welcome the emotional support for their children's faith. Similarly, non-Christians in the Bible Belt may be put off by the clubs' evangelical fervor; members of the chess society, after all, do not inform peers that they must push pawns or risk eternal damnation. Not everyone shares the enthusiasm Proffitt recently expressed at a youth rally in Niagara Falls, N.Y.: ''When an awakening takes place, we see 50, 100, 1,000, 10,000 come to Christ Can you imagine 100, or 300, come to Christ in your school? We want to see our campuses come to Christ.'' Watchdog organizations like Americans United for the Separation of Church and State report cases in which such zeal has approached harassment of students and teachers, student prayer leaders have seemed mere puppets for adult evangelists, and activists have tried to establish prayer clubs in elementary schools, where the description ''student-run'' seems disingenuous.

Nevertheless, the Jewish committee's Stern concedes that ''there's been much less controversy than one might have expected from the hysterical predictions we made.'' Americans United director Barry Lynn notes that ''in most school districts, students are spontaneously forming clubs and acting upon their own and not outsiders' religious agendas.'' A.C.L.U. lobbyist Terri Schroeder also supports the Equal Access Act, pointing out that the First Amendment's Free Exercise clause protecting religious expression is as vital as its Establishment Clause, which prohibits government from promoting a creed. The civil libertarians' acceptance of the clubs owes something to their use as a defense against what they consider a truly bad idea: Istook's school-prayer amendment. Says Lynn: ''Most reasonable people say, 'If so many kids are praying legally in the public schools now, why would you possibly want to amend the Constitution?'''

For now, the prospects for prayer clubs seem unlimited. In fact, the tragic shooting of eight prayer-club members last December in West Paducah, Ky., by 14-year-old Michael Carneal provided the cause with matyrs and produced a hero in prayer-club president Ben Strong, who persuaded Carneal to lay down his gun. Strong recalls that the club's daily meetings used to draw only 35 to 60 students out of Heath High School's 600. ''People didn't really look down on us, but I don't know if it was cool to be a Christian,'' he says. Now 100 to 150 teens attend. Strong has since toured three states extolling the value of Christian clubs. ''It woke a lot of kids up,'' he says. ''That's true everywhere I've spoken. This is a national thing.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILCHREST). In the absence of a designee of the majority leader, the gentleman from Texas was permitted to continue.

CONGRESS MUST ELIMINATE MARRIAGE TAX PENALTY NOW

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, why is it so important that we pass the Marriage Tax Elimination Act of 1998? I think a series of questions best illustrates why.

Do Americans feel that it is fair that the average working married couple pays higher taxes just because they are married? Do Americans feel that it is fair that 21 million married working couples pay on the average $1,400 more just because they are married? Do Americans feel that it is right that our Tax Code actually provides an incentive to get divorced?

Of course not. Americans recognize that the marriage tax penalty is unfair. Twenty-one million married working couples pay on the average $1,400 more just because they are married. That is real money for real people. One year's tuition at Joliet Junior College in the south suburbs of Chicago equals $1,400. Fourteen hundred dollars is 3 months of child care at a local day care center in Joliet as well. That is real money for real people.

Let us make elimination of the marriage tax penalty our number one priority in this year's budget. Let us eliminate the marriage tax penalty. Let us eliminate it now.

Mr. Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. tax code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: Cut waste, put America's fiscal house in order, and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46—$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel its fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel its fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School teacher	Couple
Adjusted gross income	$30,500	$30,500	$61,000
Less personal exemption and standard deduction	6,550	6,550	11,800
Taxable income	23,950	23,950	49,200
Tax liability	3,592.5	3,592.5	8,563
Marriage penalty			1,378

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Everyday we get closer to April 15th more married couples will be realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: A down payment on a house or a car, one years tuition at a local community college, or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Elimination Act.

It would allow married couples a choice in filing their income taxes, either jointly or as individuals—which ever way lets them keep more of their own money.

Our bill already has the bipartisan cosponsorship of 238 Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote "the era of big government is over."

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty—a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Lets eliminate The Marriage Tax Penalty and do it now!

THE AIDS ACCOUNTABILITY PROJECT

(Mr. COBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBURN. Mr. Speaker, with the availability of powerful new drug therapies, many with HIV infection now have hope. The cost of that hope is anywhere from $10,000 to $40,000 a year. I believe it is unconscionable to deny drugs to this group of people who are living with HIV, and I commend this body for the money that we have raised and allocated for this purpose.

However, I have been shocked to learn that many AIDS organizations pay their executives excessive salaries at the expense of those living with HIV. Medically necessary care is being severely curtailed while these executives line their pockets with Federal dollars.

I would advise the Members of this body and the public in general to look at www.accountabilityproject.com. to look at how this money is spent. I welcome AIDS patients to discuss this with this body.

Mr. Speaker, I submit for the RECORD the following article from the April 26 San Francisco Examiner about the accountability project.

[From the San Francisco Examiner, April 26, 1998]

TRACKING THE FUNDS FOR AIDS

(By Erin McCormick)

Michael Petrelis wants to know what happened to the $1.5 billion the United States spent on AIDS last year.

The 39-year-old AIDS patient, and a growing number of activists like him, have been willing to bang on locked boardroom doors, rifle through file cabinets and generally raise hell to make sure money raised for AIDS goes to fight the deadly disease and not to overhead expenses and high salaries for charity executives.

Now they are taking their crusade public with an Internet Web site that will allow donors and people with AIDS to follow the money that goes to the dozens of charity relief efforts around the country.

"There's a new phenomenon of people with AIDS living longer, which means we're asking more questions about services," Sid Petrelis, who said since he started prodding organizations for financial information he has been banned from receiving full services at three Bay Area AIDS charities.

"We're now questioning where the money goes from the AIDS Walk, the AIDs Ride and the AIDS Dance-athon because we would like to have services like hot meals and housing," he said.

The Accountability Project Web site (www.accountabilityproject.com), which reveals IRS tax filings and other financial information about major U.S. AIDS charities and other nonprofits, makes it possible for internet surfers to get instant information about how they spend their money.

The project, an offshoot of the in-your-face AIDS activist group, ACT UP Golden Gate, is also pushing for laws to require open board meetings, democratic management and greater financial scrutiny for the nation's rapidly growing nonprofit sector.

"Nonprofits are a trillion-dollar industry in the U.S.," said project member Jeff Getty, who has lobbied to get City Hall to pass laws requiring more public accountability from nonprofits that get city funds. "Our country is creating a [p.8] huge sector that's sometimes replacing government and is spending government money, but has no elected officials and no taxpayer accountability."

TAX RETURNS IN PUBLIC EYE

So far, the Accountability Project Web site has published the tax returns of 28 nonprofits from around the nation, ranging from the San Francisco AIDS Foundation and New York's Gay Men's Health Crisis to Walden House, a substance abuse recovery program that devotes only a portion of its resources to people with AIDS.

And while, on the whole, the documents show a vast array of lifesaving work being done on behalf of AIDs patients, Petrelis says, they also raise questions about some charities' priorities.

For instance, the reports show that 21 executives who worked at 10 of the charities, had pay packages exceeding $100,000.

The highest salary and benefits package went to Walden House Executive Director Alfonso Acamporo, who made $186,000 in 1996. Jerome Radwin, a director of the American Foundation for AIDS Research in New York, received the second highest, $181,000, followed by Pat Christen of the San Francisco AIDS Foundation, whose total compensation was $162,000.

The tax information also shows some executives getting large pay increases at a time when, Petrelis says government funding for AIDS is increasingly scarce.

In the case of the Washington, D.C., meal program, Food and Friends, tax returns show that Executive Director Craig Schniderman got a 62 percent raise in 1996, from $63,000 to $102,000.

JUDGING THE COMPENSATION

Dan Langen of the National Charities Information Bureau, which monitors tax-exempt organizations, said the issue of how much they should pay their executives is often controversial.

On one hand, he said, if a multimillion-dollar charity hires a manager who doesn't know how to handle money, it may see revenues—and services—disappear fast. But "there should be a difference between for-profit compensation and nonprofit. These people might be able to make a lot of money on Wall Street, but when they choose to work for a charity, they have chosen a different lifestyle."

The National Charities Bureau says nonprofits should spend at least half of their budgets on the charity mission, not on fund raising or administrative costs. It's a goal exceeded by all groups on the Web site.

That doesn't satisfy Petrelis.

He questions spending by Visual Aid, a small charity that helps artists suffering from devastating diseases by providing art supplies and organizing exhibitions. Petrelis noted that the group reported spending only 21 percent of its $159,000 budget on grants for artists' supplies, while much of the rest went to salaries and overhead.

Visual Aid Executive Director Jim Fisher said without its two staff members, the organization would be unable to put on exhibits, solicit donations of supplies or do any fund raising.

"We're about motivating people with illnesses to start working again," he said. "The Michael Petrelises of the world like to yell at us tiny people, who are just trying to build a base."

Petrelis said his pet peeve is the campaign for a $3.7 million Memorial AIDS Grove in Gold Gate Park, which solicited donors to pay $10,000 to sponsor a boulder and $15,000 for a park bench.

Petrelis said he doesn't understand how, at a time when people are still dying of AIDS, groups can be raising $10,000 for a boulder.

But project director Tom Weyand said the grove serves a vital purpose for those who have lost loved ones to AIDS and is not meant to compete with programs helping those fighting the disease. "It's about memories," he said.

While no nonprofit groups protest having their IRS reports on the Accountability Project Web site, some recoil at the group's efforts to get them to make public all financial records and board meetings.

The San Francisco AIDS Foundation said it's happy to have its tax filings posted but opposes measures that would require additional paperwork.

Petrelis said the cooperative treatment program run by the AIDS Foundation, the San Francisco AIDS Health Project and the Shanti Project barred him from group therapy sessions and group events after he got another piece of information and put it on the Web site; a transcript of an AIDS Foundation focus group in which patients were interviewed about the quality of services.

Petrelis said the foundation charged he had stolen the transcripts and banished him from group sessions as punishment for compromising the confidentiality of survey participants.

The AIDS Foundation and the Shanti Project said confidentiality rules barred them from commenting on Petrelis' status as a client.

But, while Petrelis and other Accountability advocates are criticized for being confrontational, the movement to require more scrutiny of nonprofits has caught fire.

''The bigger nonprofits get, the more chance they get out of touch with their constituencies,'' said Supervisor Tom Ammiano, who plans to introduce legislation Monday requiring more openness from nonprofits getting city money.

''We need to make sure the accountability is there so we aren't kept in the dark about what these organizations are doing to earn their keep,'' Ammiano said.

TOP-EARNING CHARITY EXECUTIVES

These executives earned the highest compensation packages of the 28 AIDS charities and other nonprofits that have so far provided IRS information to Project Accountability.

AIDS Healthcare Foundation-Los Angeles, $30 million annual budget: Michael Weinstein, President, $126,548.

AIDS Project Los Angeles, $16 million annual budget: James Earl Loyce Jr., Executive director, $144,227; William Misenhimer, Chief financial officer, $114,321; Allen Carrier, Director, $109,915.

American Foundation for AIDS Research-New York, $17 million annual budget: Jerome Radwin, Chief operating officer, $181,443; John Logan, General counsel, $104,391; Ellen Cooper, MD MPH, Vice president, $157,597; Sally Morrison, Vice president, $100,186.

Food and Friends, Washington DC meal program, $4 million annual budget: Craig Shniderman, Executive director, $102,125.

Gay Men's Health crisis-New York, $28 million annual budget: Mark Robinson, Executive director, $153,565; Addie Guttag, Deputy director, $139,337; Michael Isbel, Deputy director, $139,337.

Lambda Legal Defense and Education Fund-New York, $4 million annual budget: Kevin Cathcart, Executive director, $138,591.

Los Angeles Gay and Lesbian Community Services, $17 million annual budget: Name not provided, Executive director, $127,803.

San Francisco AIDS Foundation, $16 million annual budget: Pat Christen, Executive director, $162,294; Jane Breyer, Development director, $117,633; Lance Henderson, Finance director, $110,465; Rene Durazzo, Program director, $100,362.

Walden House-San Francisco substance abuse program, $14 million annual budget: Alfonso Acampora, Chief executive officer, $185,810.

Whitman-Walker Clinic-Washington DC, $16 million annual budget: James Graham, Executive director, $141,548; Harold Hawley, Medical director, $117,860.

Source: summaries of charities' most recent IRS 990 forms posted on the Accountability Project Web site. Some charities' reports cover the fiscal year 1995–96, while others cover calendar year 1996.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Mr. GEPHARDT) for today, on account of official witness.

Mr. DOYLE (at the request of Mr. GEPHARDT) for today after 6:00 p.m., on account of family business.

Mr. RADANOVICH (at the request of Mr. ARMEY) for today and the balance of the week, on account of the birth of a child.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EDWARDS) to revise and extend their remarks and include extraneous material:)

Mr. RUSH, for 5 minutes, today.

Ms. JACKSON LEE of Texas, for 5 minutes, today.

Mr. GREEN, for 5 minutes, today.

Mr. BENTSEN, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. KANJORSKI, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BARRETT of Wisconsin, for 5 minutes, today.

(The following Members (at the request of Mr. McCrery) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. COBURN, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EDWARDS) and to include extraneous matter:)

Mr. KIND.

Mr. GEJDENSON.

Mr. ROTHMAN.

Mr. VISCLOSKY.

Mr. HILLIARD.

Mr. FRANK of Massachusetts.

Ms. EDDIE BERNICE JOHNSON of Texas.

Mr. BLUMENAUER.

Mr. KUCINICH.

Mr. TOWNS.

Mr. MARKEY.

Mr. BARRETT of Wisconsin in two instances.

Mr. MOAKLEY.

Mr. STARK.

Mr. BROWN of California.

Mr. BLAGOJEVICH.

Mr. GREEN.

Mr. PALLONE.

Mr. BORSKI.

Mr. RAHALL.

(The following Members (at the request of Mr. MCCRERY) and to include extraneous matter:)

Mr. GILMAN.

Mr. WELLER.

Mr. ARMEY.

Mr. PITTS.

Mr. MCHUGH.

Mr. WALSH.

(The following Members (at the request of Mr. EDWARDS) and to include extraneous matter:)

Mr. YATES.

Mr. WEYGAND in two instances.

Mr. KUCINICH in two instances.

Mrs. TAUSCHER in two instances.

Ms. DUNN.

Mr. VISCLOSKY.

Mr. PACKARD.

Mr. MCDERMOTT.

Mr. FOSSELLA.

Mr. GREEN.

Mr. KIND.

Mr. BARRETT of Wisconsin.

Mr. SCHUMER on H.R. 6 in the Committee of the Whole today.

ADJOURNMENT

Mr. CONYERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Thursday, May 7, 1998, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 2217. A bill to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes (Rept. 105–509). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2841. A bill to extend the time required for the construction of a hydroelectric project (Rept. 105–510). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 420. Resolution providing for consideration of the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 105–511). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 262. Resolution authorizing the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds; with an amendment (Rept. 105–512). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 265. Resolution authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts (Rept. 105–513). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 263. Resolution authorizing the use of the Capitol Grounds for the seventeenth annual National Peace Officers' Memorial Service: with an amendment (Rept. 105–514). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MENENDEZ:

H.R. 3798. A bill to amend section 258 of the Communications Act of 1934 to protect telephone consumers against ''cramming'' of charges on their telephone bills; to the Committee on Commerce.

By Mr. MICA (for himself, Mr. PORTMAN, Mr. HASTERT, Mr. SOUDER, Mr. MCCOLLUM, Ms. ROS-LEHTINEN, and Mr. GOSS):

H.R. 3799. A bill to establish programs designed to bring about drug free teenage driving; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 3800. A bill to amend the Foreign Assistance Act of 1961 to require that assistance provided to a foreign country under part I of that Act, other than assistance provided on a cash transfer basis, shall be in the form of credits redeemable only for the purchase of United States goods and services; to the Committee on International Relations.

By Mr. ANDREWS:

H.R. 3801. A bill to amend title 11 of the United States Code to modify the application of chapter 7 relating to liquidation cases; to the Committee on the Judiciary.

By Mrs. LOWEY (for herself, Mr. EVANS, Mr. KENNEDY of Rhode Island, Mrs. MORELLA, Mr. FRANK of Massachusetts, Mr. OLVER, Ms. WOOLSEY, Mr. MCGOVERN, Mr. KUCINICH, Mrs. MALONEY of New York, Mr. SANDERS, Mr. HALL of Ohio, Mr. WAXMAN, Ms. SLAUGHTER, Mr. TOWNS, Mr. VENTO, Mr. BLAGOJEVICH, Mr. YATES, Ms. ROYBAL-ALLARD, Mr. LUTHER, Mr. STUPAK, and Mr. SERRANO):

H.R. 3802. A bill to prohibit the provision of defense services and training under the Arms Export Control Act or any other Act to foreign countries that are prohibited from receiving international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961; to the Committee on International Relations.

By Mr. REYES:

H.R. 3803. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Resources.

By Mr. SCARBOROUGH:

H.R. 3804. A bill to require that any amounts appropriated in a fiscal year for the House of Representatives for members' representational allowances which remain unexpended after all payments are made under such allowances for the fiscal year shall be used to repay amounts borrowed from the old-age, survivors, and disability insurance programs under title II of the Social Security Act; to the Committee on House Oversight.

By Mr. ARMEY:

H. Con. Res. 272. Concurrent resolution expressing the sense of the House on health care quality; to the Committee on Commerce.

By Mr. BRADY (for himself, Mr. GILMAN, Mr. GALLEGLY, Mr. ACKERMAN, Mr. SMITH of New Jersey, Mr. MENENDEZ, Mr. BALLENGER, Mr. MARTINEZ, Mr. SANFORD, and Mr. DAVIS of Florida):

H. Res. 421. A resolution expressing the sense of the House of Representatives deploring the tragic and senseless murder of Bishop Juan Jose Gerardi, calling on the Government of Guatemala to expeditiously bring those responsible for the crime to justice, and calling on the people of Guatemala to reaffirm their commitment to continue to implement the peace accords without interruption; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 339: Mr. GREENWOOD.

H.R. 530: Mrs. JOHNSON of Connecticut and Mr. SOLOMON.

H.R. 538: Mr. FROST.

H.R. 628: Mr. KENNEDY of Rhode Island.

H.R. 633: Mr. HOUGHTON.

H.R. 678: Mr. BURTON of Indiana, Mr. FOSSELLA, Mr. HANSEN, Mrs. KELLY, Mr. PARKER, Mr. TIAHRT, Mr. HERGER, Mr. MCKEON, Mr. DICKEY, Mrs. CHENOWETH, and Mr. REYES.

H.R. 696: Mr. MORAN of Virginia.

H.R. 814: Mr. MARTINEZ.

H.R. 859: Mr. JENKINS.

H.R. 944: Mr. LARGENT.

H.R. 950: Mr. MEEKS of New York.

H.R. 953: Mr. HILLIARD and Mr. SCHUMER.

H.R. 979: Mr. HAYWORTH, Mrs. CAPPS, and Mr. BARRETT of Nebraska.

H.R. 1126: Mr. JOHN and Mr. SABO.

H.R. 1173: Mr. SCOTT, Mr. JEFFERSON, and Mr. GUTIERREZ.

H.R. 1219: Mrs. CAPPS.

H.R. 1231: Ms. DANNER.

H.R. 1289: Mr. DIAZ-BALART and Mr. SHAW.

H.R. 1376: Mrs. CAPPS and Mr. LAMPSON.

H.R. 1492: Mr. ROGAN.

H.R. 1524: Mr. SANDERS.

H.R. 1628: Mr. SHAW and Mr. NADLER.

H.R. 1671: Ms. PELOSI.

H.R. 1706: Mr. BARRETT of Wisconsin.

H.R. 1766: Mr. BASS, Ms. BROWN of Florida, Mr. COOKSEY, Mr. CRAPO, Mr. FORD, Mr. GILMAN, Mr. JONES, Mrs. MCCARTHY of New York, Mr. MCCRERY, Mr. MEEKS of New York, Mr. OBERSTAR, Ms. PRYCE of Ohio, and Mr. THUNE.

H.R. 1813: Mr. GONZALEZ and Ms. FURSE.

H.R. 1913: Mr. BENTSEN.

H.R. 2077: Mr. HINCHEY and Mr. MARKEY.

H.R. 2183: Mr. TAUZIN.

H.R. 2273: Mr. MOLLOHAN, Mr. BARCIA of Michigan, Mr. HOLDEN, Mr. SNYDER, Mr. CAMPBELL, Mr. LEWIS of Kentucky, Mr. UNDERWOOD, Mr. LEACH, Mr. BILIRAKIS, Mr. COYNE, Mrs. CAPPS, Mr. DEUTSCH, Mr. KANJORSKI, and Mr. MOAKLEY.

H.R. 2275: Mr. RUSH, Mrs. MALONEY of New York, Mr. RANGEL, and Mr. BALDACCI.

H.R. 2313: Mr. KING of New York.

H.R. 2377: Mr. COBLE, Mr. GILCHREST, Mr. MCCRERY, Mr. PICKETT, Mrs. THURMAN, and Mr. METCALF.

H.R. 2408: Mr. SHERMAN and Mrs. TAUSCHER.

H.R. 2409: Mr. RUSH.

H.R. 2454: Mr. MEEKS of New York.

H.R. 2457: Mr. MEEKS of New York.

H.R. 2500: Mr. ADERHOLT.

H.R. 2504: Mr. FILNER.

H.R. 2523: Mr. BONIOR.

H.R. 2547: Mr. OLVER.

H.R. 2593: Mr. ROTHMAN and Mr. WYNN.

H.R. 2733: Mrs. MALONEY of New York, Mr. ENGLISH of Pennsylvania, Mr. BEREUTER, Mr. KILDEE, Ms. STABENOW, Mr. ORTIZ, Mr. BONIOR, Mr. GEKAS, Ms. SLAUGHTER, Mr. ROGERS, and Mr. ETHERIDGE.

H.R. 2748: Mr. JENKINS and Mr. BOEHLERT.

H.R. 2804: Mr. RUSH, Mr. FALEOMAVAEGA, Mr. ETHERIDGE, and Mr. STUPAK.

H.R. 2898: Ms. SLAUGHTER and Mrs. LOWEY.

H.R. 2935: Mr. LEWIS of Georgia.

H.R. 2938: Mr. LATOURETTE.

H.R. 2942: Mr. HILLEARY, Mr. ENSIGN, Mr. WATTS of Oklahoma, Mr. FOLEY, Mr. ORTIZ, Mr. DEAL of Georgia, and Mrs. MYRICK.

H.R. 2951: Mr. JEFFERSON, Mr. MANZULLO, Mr. WEYGAND, Mr. UPTON, Mr. MCGOVERN, Mr. WYNN, Mr. BARRETT of Nebraska, and Mr. KILDEE.

H.R. 2960: Mr. STENHOLM.

H.R. 3000: Mr. THOMAS and Mr. HALL of Texas.

H.R. 3001: Mr. GREENWOOD, Mr. WAXMAN, Mr. BACHUS, and Ms. MILLENDER-MCDONALD.

H.R. 3048: Mr. BLUNT.

H.R. 3067: Mr. TRAFICANT and Mr. KILDEE.

H.R. 3099: Mr. KLECZKA and Mr. MCHUGH.

H.R. 3110: Mrs. EMERSON, Mr. MURTHA, and Mr. PETERSON of Pennsylvania.

H.R. 3131: Mr. TORRES and Mr. HOBSON.

H.R. 3176: Mr. INGLIS of South Carolina.

H.R. 3189: Mr. BAKER, Mr. STUMP, Mr. CANADY of Florida, and Mr. RIGGS.

H.R. 3206: Mr. NORWOOD.

H.R. 3234: Mr. ARMEY.

H.R. 3284: Mr. MORAN of Kansas and Mr. CANADY of Florida.

H.R. 3304: Mr. DREIER, Ms. ROS-LEHTINEN, and Mr. BLILEY.

H.R. 3342: Mr. CLAY.

H.R. 3351: Mrs. EMERSON.

H.R. 3396: Mr. PASTOR, Mr. STEARNS, Mrs. FOWLER, Mr. BALLENGER, Mr. REGULA, Mr. SOLOMON, Ms. PRYCE of Ohio, Mrs. CHENOWETH, Mr. MANZULLO, Mr. NUSSLE, Mr. FAZIO of California, Mrs. JOHNSON of Connecticut, Mr. SMITH of New Jersey, Mr. LATOURETTE, and Mr. NETHERCUTT.

H.R. 3400: Mr. LANTOS.

H.R. 3410: Mr. METCALF, Mr. PICKETT, Mr. NETHERCUTT, Mr. BARRETT of Nebraska, Mr. BISHOP, Mr. BOYD, Mr. BRYANT, Mr. CALVERT, Mr. CANADY of Florida, Mr. CHAMBLISS, Mr. COBLE, Mr. CONDIT, Ms. DUNN of Washington, Mrs. EMERSON, Mr. FOLEY, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. MCHUGH, Mr. NORWOOD, Mr. PAXON, Mr. PICKERING, Mr. POMBO, Mr. SOLOMON, and Mr. SMITH of Michigan.

H.R. 3433: Mr. HOUGHTON, Mr. NUSSLE, Mr. WELLER, Mr. MCDERMOTT, and Mr. LEVIN.

H.R. 3466: Mr. HINCHEY, Mrs. MALONEY of New York, and Mr. HILLIARD.

H.R. 3475: Mr. SHAYS, Mr. MALONEY of Connecticut, Mr. NADLER, and Mr. HYDE.

H.R. 3494: Mr. HASTERT and Ms. LOFGREN.

H.R. 3504: Mr. DUNCAN.

H.R. 3517: Mr. ENGLISH of Pennsylvania, Mr. LAFALCE, Mr. HILLIARD, Mr. DEFAZIO, Mr. UNDERWOOD, Mr. FALEOMAVAEGA, Mr. GEKAS, Mrs. CLAYTON, and Ms. ESHOO.

H.R. 3523: Mr. YOUNG of Alaska, Mr. CHRISTENSEN, Mrs. CAPPS, Mr. WELLER, Mr. ABERCROMBIE, Mr. POMEROY, Mr. LAHOOD, and Mr. LUCAS of Oklahoma.

H.R. 3524: Mr. ENGEL.

H.R. 3531: Mr. EVANS, Mr. SANDERS, and Ms. FURSE.

H.R. 3534: Mr. RILEY, Mr. ADERHOLT, Mr. HOBSON, Mr. MCHUGH, Mr. BLUNT, Mr. SENSENBRENNER, Mr. GILLMOR, Mr. BARR of Georgia, Mr. MCINTOSH, Mr. LEWIS of Kentucky, Mr. HAYWORTH, Mr. THORNBERRY, Mr. MANZULLO, Mr. LAHOOD, Mr. ENGLISH of Pennsylvania, Mr. ROGAN, Mr. SUNUNU, and Mr. BEREUTER.

H.R. 3547: Mr. GOODE and Mr. WAMP.

H.R. 3561: Ms. SLAUGHTER.

H.R. 3566: Mr. FRANKS of New Jersey.

H.R. 3567: Mrs. EMERSON, Mr. KILDEE, and Mr. ALLEN.

H.R. 3570: Mr. KENNEDY of Massachusetts, Mr. MEEHAN, and Ms. LEE.

H.R. 3577: Mr. ENGEL and Ms. PELOSI.

H.R. 3604: Mr. DOOLEY of California, Ms. PELOSI, Mr. SHERMAN, Mr. FILNER, Mr. BERMAN, Mrs. TAUSCHER, and Mr. FARR of California.

H.R. 3613: Mr. LEWIS of California and Mr. STUPAK.

H.R. 3624: Mr. LANTOS and Mrs. CLAYTON.

H.R. 3626: Mr. BONILLA.

H.R. 3629: Mr. JONES.

H.R. 3632: Mr. DIAZ-BALART, Mr. SOLOMON, Mr. LATOURETTE, Mr. KING of New York, Mr. MCHUGH, Mr. NEY, Mr. LOBIONDO, Mr. LAHOOD, Mr. KILDEE, Mr. BLUMENAUER, Mr. ANDREWS, Ms. FURSE, and Mr. FORBES.

H.R. 3636: Ms. NORTON, Mr. STARK, and Mr. PETRI.

H.R. 3644: Mr. MATSUI.

H.R. 3682: Mr. ADERHOLT.

H.R. 3686: Mrs. CAPPS, Ms. SLAUGHTER, and Mrs. MALONEY of New York.

H.R. 3707: Mr. MCINTOSH, Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. HERGER, Mr. HOSTETTLER, Mr. DOOLITTLE, Mr. ARCHER, Mr. ROYCE, Mr. SHADEGG, Mr. SESSIONS, Mr. BRADY, Mr. COMBEST, Mr. SMITH of Texas, Mr. DELAY, Mr. PAUL and Mr. KASICH.

H.R. 3713: Mr. BECERRA.

H.R. 3734: Mrs. EMERSON, Mr. LOBIONDO, Mr. KING of New York, Mr. COMBEST, Mr. BLUNT, Ms. PRYCE of Ohio, Mr. INGLIS of South Carolina, Mr. REDMOND, Mr. JONES, Mr. DOOLITTLE, Mr. SESSIONS, Mr. ROYCE, Mr. TALENT, Mr. GOODE, Mr. FORBES, Mr. SOUDER, Mr. POMBO, Mr. BURTON of Indiana, Mr. FRANKS of New Jersey, Mrs. LINDA SMITH of Washington, Mr. BRADY, Mr. DELAY, and Ms. DUNN of Washington.

H.R. 3775: Mr. LIVINGSTON.

H.R. 3783: Mr. LAZIO of New York.

H.J. Res. 108: Mr. LUTHER.

H. Con. Res. 65: Mrs. CAPPS.

H. Con. Res. 203: Mr. STUPAK.

H. Con. Res. 229: Mrs. LOWEY and Mr. PACKARD.

H. Con. Res. 239: Ms. KAPTUR.

H. Con. Res. 249: Mr. ABERCROMBIE.

H. Con. Res. 254: Mr. BARTLETT of Maryland.

H. Con. Res. 258: Mr. LUTHER, Mr. KUCINICH, Mr. MENENDEZ, Mr. EVANS, Mr. DIXON, Ms. LOFGREN, Mrs. MALONEY of New York, Mr. SABO, Mr. HOBSON, Mr. HYDE, Mr. KENNEDY of Massachusetts, Ms. PELOSI, Mr. DELAHUNT, Mr. HOYER, Mr. STUPAK, and Mr. SERRANO.

H. Con. Res. 267: Mr. BATEMAN and Mr. WEXLER.

H. Con. Res. 271: Mr. KENNEDY of Massachusetts, Mr. MEEHAN, Mr. MCGOVERN, Mrs. MALONEY of New York, Mr. TORRES, Mrs. KENNELLY of Connecticut, Mr. RUSH, Mr. BONIOR, Ms. PELOSI, Mr. FOX of Pennsylvania, and Mr. SHERMAN.

H. Res. 212: Mr. BLUMENAUER, Mr. BROWN of California, Mr. BONIOR, Mrs. CAPPS, Mr. CUNNINGHAM, Mr. ENGEL, Ms. FURSE, Mr. GEJDENSON, Mr. GORDON, Mr. JEFFERSON, Mr. JENKINS, Mrs. MYRICK, Mr. NORWOOD, Mr. POMEROY, Mr. SABO, Mr. ADAM SMITH of Washington, Mr. SMITH of New Jersey, Mr. THOMPSON, and Mr. TORRES.

H. Res. 392: Mr. FALEOMAVAEGA and Mr. ROYCE.

H. Res. 418: Mr. OBEY, Mr. BONIOR, Mr. KILDEE, Mr. LEVIN, Mr. ENGLISH of Pennsylvania, Ms. KILPATRICK, Mr. SAWYER, Mr. MCHUGH, and Mr. LATOURETTE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3694

OFFERED BY: MR. TRAFFICANT

AMENDMENT NO. 3: In title III of the bill, add at the end the following new section:

SEC. 305. ANNUAL REPORT ON INTELLIGENCE COMMUNITY COOPERATION WITH DOMESTIC FEDERAL LAW ENFORCEMENT AGENCIES.

Not later than 90 days after the end of each fiscal year ending after the date of the enactment of this Act, the Director of Central Intelligence shall submit a report to the Congress that describes the level of cooperation and assistance provided to domestic Federal law enforcement agencies by the intelligence community during such fiscal year relating to the effort to stop the flow of illegal drugs into the United States through the United States-Mexico border and the United States-Canada border.

H.R. 3694

OFFERED BY: MS. WATERS

AMENDMENT NO. 4: At the end of title IV, add the following new section:

SEC. 404. REVIEW OF 1995 MEMORANDUM OF UNDERSTANDING REQUIRING THE CIA TO REPORT TO THE ATTORNEY GENERAL INFORMATION REGARDING DRUG TRAFFICKING INVOLVING ITS FORMER OR CURRENT OFFICERS, STAFF EMPLOYEES, CONTRACT EMPLOYEES, ASSETS, OR OTHER PERSON OR ENTITY PROVIDING SERVICE TO OR ACTING ON BEHALF OF ANY AGENCY WITHIN THE INTELLIGENCE COMMUNITY.

(a) REVIEW OF 1995 MEMORANDUM OF UNDERSTANDING REGARDING REPORTING OF INFORMATION CONCERNING FEDERAL CRIMES.—The Attorney General shall review the 1995 ''Memorandum of Understanding: Reporting of Information Concerning Federal Crimes'' between the Attorney General, Secretary of Defense, Director of Central Intelligence, Director of National Security Agency, Director of Defense Intelligence Agency, Assistant Secretary of State, Intelligence and Research, and Director of Office of Non-Proliferation and National Security, Department of Energy. This review shall determine whether the 1995 Memorandum of Understanding requires:

(i) REPORT TO THE ATTORNEY GENERAL.—Whenever the Director of Central Intelligence has knowledge of facts or circumstances that reasonably indicate any former or current officers, staff employees, contract employees, assets, or other person or entity providing service to, or acting on behalf of, any agency within the intelligence community has been involved with, is involved with, or will be involved with drug trafficking or any violations of U.S. drug laws, the Director shall report such information to the Attorney General of the United States.

(ii) DUTY OF INTELLIGENCE EMPLOYEES TO REPORT.—Each employee of any agency within the intelligence community who has knowledge of facts or circumstances that reasonably indicate any former or current officers, staff employees, contract employees, assets, or other person or entity providing service to, or acting on behalf of, any agency within the intelligence community has been involved with, is involved with, or will be involved with drug trafficking or any violations of U.S. drug laws, shall report such information to the Director of Central Intelligence.

(b) PUBLIC REPORT.—Upon completion of review, the Attorney General shall publicly report its findings.

H.R. 3694

OFFERED BY: MR. WELDON OF PENNSYLVANIA

AMENDMENT NO. 5: At the end of title III, add the following new section:

SEC. 305. PROLIFERATION REPORT.

(a) ANNUAL REPORT.—The Director of Central Intelligence shall submit an annual report to the Members of Congress specified in subsection (d) containing the information described in subsection (b). The first such report shall be submitted not later than 30 days after the date of the enactment of this Act and subsequent reports shall be submitted annually thereafter. Each such report shall be submitted in classified form and shall be in the detail necessary to serve as a basis for determining appropriate corrective action with respect to any transfer within the meaning of subsection (b).

(b) IDENTIFICATION OF FOREIGN ENTITIES TRANSFERRING ITEMS OR TECHNOLOGIES.—Each report shall identify each covered entity which during the preceding 2 years transferred a controlled item to another entity for use in any of the following:

(1) A missile project of concern (as determined by the Director of Central Intelligence).

(2) Activities to develop, produce, stockpile, or deliver chemical or biological weapons.

(3) Nuclear activities in countries that do not maintain full scope International Atomic Energy Agency safeguards or equivalent full scope safeguards.

(c) DEFINITIONS.—For the purposes of this section:

(1) CONTROLLED ITEM.—(A) The term ''controlled item'' means any of the following items (including technology):

(i) Any item on the MTCR Annex.

(ii) An item listed for control by the Australia Group.

(iii) Any item listed for control by the Nuclear Suppliers Group.

(B) AUSTRALIA GROUP.—The term ''Australia Group'' means the multilateral regime in which the United States participates that seeks to prevent the proliferation of chemical and biological weapons.

(C) MTCR ANNEX.—The term ''MTCR Annex'' has the meaning given that term in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(D) NUCLEAR SUPPLIERS' GROUP.—The term ''Nuclear Suppliers' Group'' means the multilateral arrangement in which the United States participates whose purpose is to restrict the transfers of items with relevance to the nuclear fuel cycle or nuclear explosive applications.

(2) COVERED ENTITY.—The term ''covered entity'' means a foreign person, corporation, business association, partnership, society, trust, or other nongovernmental organization or group or any government entity operating as a business. Such term includes any successor to any such entity.

(3) MISSILE PROJECT.—(A) The term ''missile project'' means a project or facility for the design, development, or manufacture of a missile.

(B) The term ''missile'' has the meaning given that term in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(d) SPECIFIED MEMBERS OF CONGRESS.—The Members of Congress referred to in this subsection are the following:

(1) The chairman and ranking minority party member of the House Permanent Select Committee on Intelligence.

(2) The chairman and ranking minority party member of the Senate Select Committee on Intelligence.